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INVESTIGATE THE CAUSE OF DELAY IN
THE ADMINISTRATION OF JUSTICE IN CIVIL
ACTIONS.

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The Commonwealth of Massachusetts.

REPORT OF THE COMMISSION

TO

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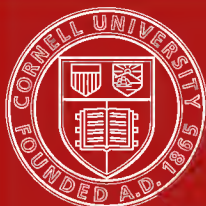
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The Commonwealth of Massachusetts.

REPORT OF THE COMMISSION

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The Commonwealth of Massachusetts.

COMMISSION TO INVESTIGATE THE CAUSES OF DELAY IN THE ADMINISTRATION OF JUSTICE IN CIVIL ACTIONS.

BOSTON, Jan. 10, 1910.

To the Honorable Senate and House of Representatives.

In accordance with the provisions of chapter 115 of the Resolves of 1909, we have the honor to transmit the following report of the commission appointed to investigate the causes of delay in the administration of justice in civil actions in the courts of the Commonwealth, the advisability of constituting new courts and of enlarging or otherwise altering the jurisdiction and powers of existing courts, the expediency of permitting the examination of parties and witnesses at an early stage of judicial proceedings, and any other matters relevant to securing a more speedy administration of justice in civil actions.

Very respectfully,

ROBERT M. MORSE.
WILLIAM CUSHING WAIT.
CHARLES B. BARNES, JR.

RESOLVE PROVIDING FOR A COMMISSION TO INVESTIGATE THE CAUSES OF DELAY IN THE ADMINISTRATION OF JUSTICE IN CIVIL ACTIONS.

Resolved, That the governor, with the advice and consent of the council, is hereby authorized and requested to appoint a commission, consisting of three persons, one of whom he shall designate as chairman, and one of whom shall be a justice of the superior court, for the purposes hereinafter named. Said commission shall investigate the causes of delay in the administration of justice in civil actions in the courts of the Commonwealth, the advisability of constituting new courts and of enlarging or otherwise altering the jurisdiction and powers of existing courts, the expediency of permitting the examination of parties and witnesses at an early stage of judicial proceedings, and any other matters relevant to securing a more speedy administration of justice in civil actions. The members of the commission shall serve without compensation, but the commission may incur such expense, not exceeding twenty-five hundred dollars, for clerical assistance or otherwise as it may deem necessary. The commission shall report the result of its investigation with its recommendations, to the general court, on or before the tenth day of January next.

(The foregoing was laid before the Governor on the twenty-fifth day of May, 1909, and after five days it had "the force of a law", as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.)

REPORT.

By the authority of the foregoing resolve the Governor, on July 21, 1909, appointed the undersigned as commissioners and designated Mr. Morse as chairman.

The commissioners met July 26, outlined their work, and appointed as their secretary Henry M. Hutchings, who has rendered valuable service to the commission.

On Aug. 1, 1909, the collection of data from the records of the various courts was begun, and letters were sent to each of the justices of the Supreme Judicial Court and of the Superior Court, to the judges of the Probate Courts, the judges of the Land Court and the judges of Police, District and Municipal Courts, to the clerks of court and registers of probate, to the Attorney-General and to the president and secretary of each of the bar associations in the Commonwealth, requesting suggestions to the commission relative to the subject matter of the resolve.

An examination of the tables appended to this report will show that both time and labor were required on the part of the court officials to furnish the information called for. The figures contained therein, in many instances made up by different systems of classification in vogue in the different counties and courts, are doubtless not entirely free from error, but we believe that they represent with substantial accuracy the conditions with which they deal. We desire to express our appreciation of the courtesy and promptness of the court officials who have afforded us this assistance.

By reason of the time thus required, it was well along in the autumn before the data received by the commission were in any substantial degree complete, and a still later date when the commission received the additional information which an examination of the original data showed to be important. The

time, therefore, at the disposal of the commission for the consideration of the subject matter of the resolve and for the preparation of their report and the drafting of statutory provisions and amendments included in the accompanying bill has necessarily been much shorter than we should have wished.

A public hearing was held at the State House on Oct. 1, 1909, notice of which was printed in each of the Boston daily papers on September 23 and September 30, and in one of the leading papers in every county during the week preceding the hearing.

In addition to the suggestions received by the commission from judges and members of the bar, they have endeavored to avail themselves of the experience of other jurisdictions, both in this country and in England.

In making their investigations the commission have had the benefit of the result of an investigation made in New York in 1903, by a commission appointed under a legislative act to investigate the "law's delay" in that State. They have also been given much detailed information about the recently established Municipal Court of the city of Chicago. In addition, judges and members of the bar of other States have given information and made helpful suggestions which have been highly appreciated by the commission.

As will more fully appear later in this report, we find that avoidable delay exists, especially in Suffolk County and the counties immediately adjoining it, but its extent even there has been much exaggerated in the public mind. We do not advise the creation of any new courts or an immediate increase in the number of judges in the existing courts. We recommend changes in the jurisdiction and powers of the existing courts by removing jury trials from the Supreme Judicial Court, by transferring divorce from the Superior Court to the Probate Courts, and largely eliminating from the Land Court, the Probate Courts and the Police, District and Municipal Courts appeals on questions of fact, so that there will be but a single trial of such questions. Further, we recommend changes permitting the examination of parties and witnesses at an early stage of judicial proceedings, and changes in many details of practice and procedure. Although

our duties were confined to civil actions, we have recommended a change in the conduct of capital trials, designed to prevent a serious inroad on the time which can be devoted to civil actions. We have provided that in all proceedings the Superior Court shall be held by one judge only.

We have prepared a bill designed, chiefly by amendment of existing statutes, to bring about the changes and objects recommended.

The proposed changes are so inter-related that no one can well be omitted without seriously impairing the effect of the others; and we feel strongly that all should be given a trial, confident that they will prove sufficient to overcome the present causes for complaint. More drastic modifications, we think, should not be made, for the present at least, in a judicial system which has stood well the tests of actual experience, — modifications which will inevitably increase substantially the burdens of taxation. The changes we advise will, in our opinion, impose little, if any, additional expense upon the Commonwealth; and this should be avoided until further experience demonstrates that substantial evils remain which can be removed only by increased expenditure of public money.

“Delay” is a relative term. The lapse of time necessary for the proper preparation and presentation of a party’s case is not delay. Any unnecessary expenditure of time in the vindication of the party’s rights is delay. The public properly has no interest to urge individuals to resort to the courts, or to hurry them beyond their wish in the prosecution of their cases. It is interested in securing them a speedy determination of their controversies when once they are ready for trial.

There has never been a time when causes could be tried by a jury immediately upon their entry in court. To secure this would require an expenditure of public money far exceeding any sum the public could afford. The public must make reasonable provision for securing and maintaining the rights of litigants. This it has sought to do.

We find that in all parts of the Commonwealth, except in the counties of Suffolk, Middlesex, Essex and Norfolk, there is no serious delay in securing jury trials; and in those coun-

ties the necessary delay due to overcrowded trial dockets is not so excessive as is sometimes thought. In the year ending June 30, 1909, cases begun in 1909 were tried by jury in seven of the counties; and cases entered in 1908 were tried by jury in six of the other counties, including Suffolk.

In the Superior Court figures showing the number of cases tried and settled or disposed of by order of the court are obtainable for each year since 1905. These appear in the reports made by the clerks of court to the secretary of the Commonwealth under chapter 321 of the Acts of 1905. As these figures are in the published reports, it has been thought unnecessary to reprint them in the tables herewith appended. They show that nearly as many cases have been disposed of by trial or otherwise each year as were entered. In some years more were disposed of than were entered. During the past year there was an unusual number of capital trials in different parts of the State, each of which required two judges, one of whom might otherwise have been holding a civil session. There were also in Suffolk two additional criminal sessions during the past year, which prevented the holding of the full number of civil sessions. Lack of court rooms in Suffolk County has for several years prevented the holding of additional jury sessions in that county which would otherwise have been provided.

While we are of opinion that considerable unnecessary delay exists in the counties named, we believe that the causes of such delay can largely be removed without substantial additional expense to the Commonwealth, by the adoption of the amendments to our present statutes which we recommend, and the vigorous exercise by the courts of the powers they possess.

There is nothing in the number of pending cases on our dockets to alarm the people or dismay the courts. Experience demonstrates that only one in four cases entered in court will ever be presented for trial. Cases are entered to guard against the loss of rights through the Statute of Limitations; to obtain security by attachment for claims which will never be defended when brought to trial; to impress forcibly upon a debtor or wrong-doer the necessity for speedy payment or

adjustment of legitimate demands. They will be allowed to remain apparently alive on the docket of the court through neglect to attend to the formal acts of burial; through hope that time may give value to an apparently hopeless claim; through lack of interest in the maintenance of what once seemed important; through a multitude of causes. When a "term fee" was required to be paid to the clerk for each term a case was carried on the docket, this mass of inactive cases disappeared. No one would pay to keep the cases alive. But our statutes have done away with the term fee. No expense now attends keeping cases really without life upon the court docket, and the Superior Court has failed to adopt the excellent method of the Municipal Court of the city of Boston, by which cases in which no action has been taken disappear from the docket after a specified period. Dockets, from which cases in which the parties have lost interest are not stricken by the automatic action of some rule of court, are certain to become loaded, and to give to any one not familiar with the facts the impression that the work of the court is falling seriously behind.

Pending cases on a court docket include, besides the cases already referred to and the cases really awaiting trial, those cases which have already been tried but are awaiting disposition on appeal or exceptions in the appellate court, or the determination of motions of various kinds, or the decision of a judge who has not reached and recorded his determination of them. It is manifestly impossible to obtain accurate data with regard to the number of cases of each class just referred to; but there can be no question that the number of "pending cases" which call for action on the part of the courts or the public is vastly less than the statistics represent as pending on the dockets of the courts.

We suggest the adoption by the Superior Court of rules similar to that by which cases go "under rule" in the Municipal Court of the city of Boston, as a means of lessening the terrifying effect of this bugbear. Experience has shown that an occasional call of the docket has no such result; on the contrary, such a call galvanizes many moribund cases into short periods of fictitious life.

Something might be said for a re-enactment of the "term fee," but this would involve a considerable amount of book-keeping for the clerks of the courts, and we do not advise it.

A very large proportion of the cases marked for jury trial is made up of tort actions for personal injuries. In Suffolk accident claims against street railways consume three-quarters at least of the time given to jury trials.

Much cause of delay would be removed if controversies between master and servant for personal injuries were dealt with under a workmen's compensation act, instead of by trial in court.

The cases against railroad and railway corporations brought by passengers for personal injury might also be dealt with by legislation limiting liability for injury. They impose a burden on the public in direct expenditure for maintenance of courts and in indirect increase of the cost of transportation which is disproportionate to the amounts actually recovered by litigants. Nearly one-half the cases brought result in verdicts for the defendants. This means that twice as much time is taken by these cases as justice requires. The actual waste of time is far greater; for much the larger part of the time devoted to trial is taken up in investigation of the extent of the injuries of the plaintiff, — a matter entirely immaterial, if on the facts no liability on the part of the defendant exists. A just method of determining liability apart from the question of the amount of damage would save more than half the time taken in jury trials, and incidentally would go far to put an end to the medical expert as an object of criticism.

A very important cause of delay in particular cases is the accumulation of legal business in a few hands. An examination shows that 1,637 cases upon a trial list for Suffolk County alone were represented by only twenty attorneys or firms. Many members of the bar who devote themselves to bringing or defending accident cases are physically unable to handle rapidly the large amount of business intrusted to them. They cannot at one time try more than one case, or one set of cases dependent on the same facts; yet their presence is demanded by the trial lists in several counties and in numerous cases at

the same time. An engagement in one court room delays a trial elsewhere; and a busy lawyer may, by reason of his numerous engagements, readily render impossible the trial of a particular case which his adversary wishes to try.

This condition cannot be remedied by legislation or establishment of new courts, and the increase in number of justices would increase rather than diminish the evil. It can be dealt with only by the judges of the courts, acting as far as possible in agreement with the members of the bar, and unhampered by restrictions imposed by statutes.

We would not restrict the right of litigants to select the counsel to whom their legal business is intrusted, but we would guard against the opportunity thus afforded in fact to delay the trial of causes justly entitled to be heard.

To lessen delay of this nature, the commission recommend the repeal of Revised Laws, chapter 173, section 81, so that the power and responsibility shall be given to the court itself to establish rules of practice in this regard best calculated to meet the difficulties and abuses as they arise.

We believe that one practical remedy for delay in the vindication of rights in the courts is to free them as far as possible from the necessity for spending time on trials where no right is involved. The courts are resorted to in many cases as adjuncts in business competition, and as a field of speculation. Cases are brought on the chance that a jury may give a verdict, when no right has in fact been infringed and no damage in fact been suffered.

Such perversions of the true functions of the courts and such imposition on the public purse are best dealt with by making them expensive, and by providing means by which just causes may be separated from unjust causes at the earliest possible moment, and before a jury trial, — the most expensive portion of the legal machinery for the public.

To this end the accompanying bill makes the attachment of property before a right has been established more difficult; extends greatly the scope of the right of interrogating parties and the perpetuation of the testimony of witnesses; makes unfounded allegations in claims of right more dangerous; provides a method through affidavits of no defence and of no

merit in the claim by which the exact issues and the full legal value of the controversy may be ascertained in advance of trial, and in many cases an actual trial may be avoided without prejudice to any just claim or just defence; and throws upon the party asking the public to furnish him a jury trial the burden of contributing in part to the expense of maintaining juries.

We believe that the statutes which we recommend will go far to bring it about that jury trials in future shall involve only real merits and real rights.

The creation of a new court, with exclusive jurisdiction in equity, — and possibly divorce, — has been suggested, but we do not recommend it. One strong practical objection is its expense. At least five justices are suggested. This would mean an expenditure annually of at least \$40,000 in their salaries. The further salaries of a clerk or clerks and of officers for attendance upon the sittings would add at the least \$20,000 more; while the additional court rooms, officers and accommodations could not be had without large initial cost and a considerable annual expense. One could not expect to provide adequately for such a court without an annual expenditure of from \$80,000 to \$100,000.

A stronger objection lies in this. The present trend of legal progress is to bring law and equity together. Nothing would tend more strongly to impede this desirable end than the creation of separate courts to deal with law and equity. The chief purpose of the creation of this commission was to eliminate delay. We know of no more prolific cause of delay than the necessity of resort to two courts to obtain what might be obtained in one.

So with the creation of additional justices of the Superior Court. Additional sessions for jury trials involve great annual expense. A single jury session costs now at least \$30,000 a year in salaries of judge, clerk, court officers and payment of jurors, leaving incidental expenses out of account. Suffolk County is enlarging its court house; but other counties would expect some additional service, and this could not be furnished without adequate provision for court rooms, and a further expense to the public would be certain to result.

We believe that the transfer of divorce to the Probate Courts, and the requirement of only a single judge for capital cases and in actions against the Commonwealth, will amount to an addition of substantially the time of two judges to the Superior Court; and if, as we expect, cutting off appeals from the lower courts relieves the Superior Court, the effect will be a further increase in the amount of work which that court can accomplish with its present force.

An examination of Table No. 4 will show that in the year ending Sept. 1, 1909, there were submitted to the full court for decision 427 cases, of which 341 were argued orally and 86 submitted on briefs; and that on Sept. 1, 1909, only 21 remained undecided. It should be added that all but one of these were decided before November 24. The reporter's office reports that on Dec. 31, 1909, all cases decided by the full court during the year were in print. In view of this remarkable showing, it cannot be said that there is substantial delay in the final disposition of cases presented to the Supreme Judicial Court. It must be recognized, however, that such a record could be made only by continuous hard work on the part of the judges, and that every effort should be made to provide a wise economy of their time.

As appears by Table No. 6, the court held by a single justice heard during the year ending Sept. 1, 1909, in addition to contested wills, 84 appeals on other matters from the Probate Courts. The number of all contested wills heard was 75. Of these, there were jury trials in the Superior Court in 23, leaving the number of contested wills heard wholly by the Supreme Judicial Court 52, in which there were jury trials in 16.

We believe that the duplication of trials possible under our present practice in probate appeals should be done away with, and that the rights of the parties will be fully safeguarded by providing that the Probate Courts may frame issues to a jury to be tried in the Superior Court.

The better to insure the maintenance of the prestige of the Supreme Judicial Court and the high standing of its decisions wherever the common law is known, we believe that

legislative changes affecting it should tend to relieve it more and more of all but its appellate jurisdiction.

This court was relieved of its jurisdiction in contract cases in 1905 by chapter 263 of the Acts of that year, and all cases pending in that court can now be transferred to the Superior Court under the provisions of Acts of 1909, chapter 33.

We recommend that it now be relieved of all probate appeals on questions of fact, so that there will be left to it, besides its general appellate jurisdiction, only jurisdiction in equity and of petitions for the issuance of extraordinary writs.

Sittings of the full court are still held in seven places in this Commonwealth: At Boston, Taunton, Salem, Worcester, Springfield, Pittsfield, and, in alternate years, at Northampton and Greenfield.

In thirty-five out of the other forty-five States of the Union, to wit, New York, New Jersey, Delaware, Maryland, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Montana, Nevada, Washington, Utah, Wyoming, Colorado, Kansas, Missouri, Kentucky, Arkansas, Oklahoma, Texas, Louisiana, Mississippi, Florida, Alabama, Georgia, South Carolina, North Carolina, New Hampshire and Rhode Island, sittings of the court of last resort are held only at the State capital (except in Louisiana, where it sits at New Orleans, the principal city. See Table No. 7).

Of the remaining ten States, in two, Idaho and Oregon, the appellate court sits in two places. In six States, California, Maine, Pennsylvania, Tennessee, Virginia and West Virginia, it sits in three places; and in two, Connecticut and Vermont, in four places.

With the great facilities for easy communication with the capital city of this Commonwealth, there is, in our opinion, no reason why the sitting of the full court should be held in more than one place.

We are informed that for every week of sitting of the full court, at least a week and a half of the time of the court is consumed in the consideration of cases and the preparation of opinions. It is obvious, therefore, that the time saved in re-

lieving the members of the court from travelling to different parts of the State, and the delay incident to holding separate sessions of the full court, would result in an even more prompt disposal of the cases heard before it. Further, the effect of this change will be to expedite the hearing of cases from the different counties, which under the present practice must now await the sitting of the full court for the respective counties.

The commission recommend that all sittings of the full court shall be held at Boston.

The Superior Court was established in 1859, succeeding the old Court of Common Pleas and the Superior Court for the county of Suffolk. In 1883 it was given jurisdiction in equity, in 1887 of libels for divorce and petitions for nullity of marriage, and in 1891 of capital cases, all of which were transferred from the Supreme Judicial Court. During the past thirty years it has been steadily growing in importance and in amount of work, and to-day is the great trial court of the Commonwealth.

Tables Nos. 1, 2, 8 and 9 show the increase in population and valuation of the Commonwealth, the increase in the number of weeks of sitting of the Superior Court from 1880 to 1909, and the increase in the number of cases entered in the Superior Court. In 1880 the population was 1,783,035; in 1905, 3,003,680, — an increase of 1,220,595, or nearly 70 per cent. The valuation in 1880 was \$1,886,144,179; in 1905, \$3,420,197,438, — an increase of \$1,534,053,249, or 83 + per cent.

The total number of civil entries in the Superior Court in 1880 was 6,408; in 1885, after equity jurisdiction had been added, there were 7,165 civil entries; in 1890, after divorce had been added, there were 9,052; and for the year ending June 30, 1909, the total civil entries were 15,254, or an increase during the past twenty years from 1889, at which date it had all its present civil jurisdiction, of 6,865, or more than 80 per cent, — an increase of more than the total entries in 1880.

In 1880 the total number of weeks of sitting of the court

was 392, of which 107 were devoted to criminal terms, leaving 285 for civil terms, although in some of the smaller counties mixed terms were held, as now, and no separate record kept.

In 1909 the total number of weeks of sitting of the court was 890, of which only 129 weeks were assigned for criminal sittings, or an increase in number of weeks of criminal sitting, from 1880 to 1909, of only 22 weeks. Of the remaining 761 weeks, there were assigned in Suffolk County for equity 88 weeks and for divorce 14 weeks, thus leaving 659 weeks for other civil business, as against 285 in 1880, — an increase of 374 weeks, or 131 per cent, for civil work. In this connection it may be noted that in Suffolk County the number of weeks for jury trial of civil cases was, in 1880, 76; and in 1909, for the trial of equity cases alone, an entirely new jurisdiction, the number was 88. The number of weeks for trial of civil jury cases in Suffolk in 1909 was 252, as against the 76 of 1880, — an increase of 176 weeks, or over 231 per cent. The number of judges has been increased from a chief justice and ten associates in 1880 to a chief justice and twenty-four associates in 1909.

The reports made each year by the clerks of the Superior Court to the Secretary of the Commonwealth give the number of jury, jury waived and equity cases pending July 1 of each year, and entered, tried and disposed of by agreement or by order of court during the succeeding year ending June 30, and the number of cases pending on that date. Data taken from these figures are shown in the Tables Nos. 12-17, inclusive. A reference to these reports, which were first required in 1905, shows that on July 1 of that year there were pending in the Superior Court throughout the Commonwealth 17,836 jury cases, 5,695 jury waived cases, which from the form of the reports apparently included divorce cases, and 2,740 equity cases.

On July 1, 1909, there were pending 19,456 jury cases, 5,828 jury waived cases and 4,908 equity cases.

These reports also show that during the year ending June 30, 1909, in the 2,262 days occupied in the trial of jury cases, 2,036 cases were tried; in the 295 days occupied in the trial

of jury waived cases, 513 cases were tried, and in the 275 days occupied in the trial of equity cases, 388 cases were tried.

In our opinion, the Superior Court should abandon its present system of marking cases for trial, — at least in the busy counties. Theoretically, lists of cases for trial are made up monthly in Suffolk County, and cases may be placed upon the list for any month by giving notice at any time before the first day of the preceding month. In fact, however, the list made up for October in each year in the general jury sessions constitutes the trial list for the entire court year. So many cases are placed upon it that it is impossible for them all to be disposed of by trial in the year, and cases placed upon the general list for the following months are certain not to be reached. A lawyer with cases to be tried is thus compelled to mark all cases he possibly can for the October list, regardless of his real desire and intention to try them. The cases are arranged in the order of the date of entry in the court, and the rule is that cases shall be tried in their order. This forces the lawyer to try his cases in an order inconvenient to him, often unjust to his clients, and without regard to their special need for speedy determination. It is true that the severity of this rule is mitigated by Revised Laws, chapter 172, section 77, authorizing marking "not before" a certain date and marking "passed," and also by special orders of the court. It is none the less burdensome and unbusinesslike.

The Superior Court should devise a system under which trial lists shall be made up frequently, upon which shall be placed only cases which the attorneys actually intend to try or dispose of during the period before the next list is made up. Such systems are in use in England and in some of our States, and with reasonable modifications could be applied here. To attempt to provide further by legislation would be unwise; for the courts can meet the various requirements found necessary in actual practice much better than a Legislature; but the present system should be abandoned, and the Superior Court should forthwith by rule provide for frequent trial lists of cases, irrespective of their dates of entry, which the

parties and their counsel wish to try immediately, or which the court after hearing determines ought to be tried at once.

At first, difficulty would probably be found in making up and handling such lists; but before long, in our opinion, this would be overcome by the bar and the judges, and much of the complaint of delay would cease. Causes really demanding speedy determination would not be delayed, as they now are, to enable the court to try cases earlier in date of entry, but not requiring immediate attention, which parties and counsel alike would gladly allow to stand for a time undisposed of. This would also lessen or do away with a distinct injustice under the present system, by which certain cases — and the number is not small — secure two, three and even four trials, while other cases equally entitled to attention, but a little later in date of entry, are unable to secure even a single trial.

In the present state of the law the assignment of particular justices to the performance of the work of the Superior Court rests with a majority of the justices. We believe a more efficient system would result from placing this power in the hands of the chief justice of that court, and have recommended an amendment to that effect.

The time may not be distant when the assignment of certain of the justices to attend specially to equity, to jury trials and to criminal matters will prove to be advantageous to the public service; and this can be done under the proposed legislation by the chief justice more easily and satisfactorily than by the action of a majority of the justices.

We believe that contract and commercial cases, where large sums are involved, are now delayed in Suffolk County by the pressure of tort litigation. To remedy this we have suggested changes by which all contract cases, irrespective of the amount involved, may be placed upon the list of the speedy session for trial. This will probably result in making the sittings of that session practically contract sessions of the court. These sittings are to be held in every month except July and August.

We have felt that a method of securing and perpetuating the testimony of witnesses in advance of trial should be pro-

vided, and we have recommended provisions to that end. A further result should be to inform the parties of the evidence at the disposal of an opponent, which in many instances would lead to a settlement. We have suggested a wide extension of the power of interrogating parties. Legislation has already been enacted extending the scope of the interrogatories, and the further amendments we suggest are designed to permit interrogatories at present impossible, and to remove difficulties in the administration of the law with regard to interrogatories.

As a further means of bringing the parties to an issue of fact in advance of trial, we have recommended legislation extending the scope of the present affidavit of "no defence," and providing for a similar affidavit of "no merits" in a cause of action. Such provisions exist elsewhere, and they have been sustained by the courts. We have followed very nearly Rule 73 of the courts of the District of Columbia, sustained in the courts of that District and by the Supreme Court of the United States. (*Fidelity and Deposit Company v. United States*, 187 U. S. 315.)

With regard to the imposition of jury fees, some question of constitutionality may arise. Such fees have been adopted in twenty-five of the forty-six States, and have been sustained as constitutional in all but one, where the statute was held unconstitutional, not because it imposed a jury fee, but because of the nature of the fee imposed. A jury trial is the most expensive trial to the public, and it seems to us just that litigants who put the public to this expense should contribute the small sum that we have named. A jury costs, in the fees of the jurors alone, \$36 a day; and with the expense for officers to attend upon the jury and incidental expenses of various kinds, the daily cost is probably not less than \$50. Cases of any importance are rarely tried in less than a day, while the great majority extend over a number of days.

The Commission recommend the transfer of divorce from the Superior Court to the Probate Courts.

The appropriateness of the classification together of probate and divorce jurisdiction has long been recognized. It

is believed that the Probate Courts, dealing as they do with so many of the questions of the family relations, — including guardianship of minors and incompetents, adoption of children and petitions for separate support, — courts by the nature of their service in closer touch with the parties than any other, can more effectively deal with divorce cases as well, and the questions, often of paramount importance, arising therein of the custody of children.

It will be recalled that up to the year 1887 jurisdiction in divorce was exclusively in the Supreme Judicial Court, which has always been, and is still designated in the statutes as, the Supreme Court of Probate. In that year divorce jurisdiction was transferred to the Superior Court to relieve the Supreme Judicial Court, whose dockets at that time were seriously crowded. As one means of relief of the Superior Court, whose dockets are now found to be in a similar condition, and as a change which appears to be consistent with precedent and practical efficiency of administration, we recommend the transfer of libels for divorce and petitions for nullity of marriage.

An examination of Table No. 18 will show that the time occupied by the Superior Court in hearing 1,862 libels for divorce, during the year ending June 30, 1909, was 183 days, or more than 36 court weeks of 5 days each. which is at least the equivalent of the entire time of one judge of the Superior Court for a court year.

It is hoped that the Probate Courts, relieved of the work of insolvency jurisdiction by the passage of the National Bankruptcy Act of 1898, will in most if not all of the counties be able to do this extra work without increase in their judicial force and with slight increase in their clerical force, especially in view of the fact that by the provisions of Revised Laws, chapter 164, section 5, any judge of probate may, if in his opinion the court requires assistance of another judge, call in the judge of probate of any other county, at a *per diem* compensation.

The provisions of sections 19 to 30 inclusive in the bill submitted by us, involving amendments to the Revised Laws in regard to the proof of claims against insolvent estates

of deceased persons, were framed by the judges of the Probate Courts. We regard them as in the interest of speedier determination of such claims and in consonance with the general plan of legislation which we recommend.

It appears from Table No. 27 that 2,496 cases, or nearly one-fifth of the total entries, both jury and jury waived cases, in the Superior Court, as shown by Tables Nos. 15 and 16, were appeals from the lower court. The commission feel that the present practice, — whereby the losing party in the lower court by merely giving a bond for costs may enter an appeal, the result of which is that the trial in the lower court goes for absolutely nothing, — tends to make the trial in the lower court little more than a preliminary skirmish, which simply takes up the time of a tribunal amply qualified to make final determination of the rights of the parties, and results in an expense and delay inconsistent with the economy of a modern judicial system.

It may be thought by some that the changes recommended by the commission, whereby trial by jury and appeal are waived by parties bringing their case in the lower courts, with the reduction of the minimum jurisdiction of the Superior Court to bring about uniformity in practice without affecting the constitutionality of the proposed measure, will result in a larger proportion of cases being begun in the Superior Court, and will thus tend to increase rather than relieve the congestion there. We believe, however, that the advantage of a speedy and effective judgment at considerably less cost, and the avoidance of the delay necessarily involved in obtaining jury trial in the Superior Court, will induce suitors to decide to bring their cases in the lower courts.

Even if the result of the change here proposed should ultimately be to increase the number of cases brought in the Superior Court, and necessitate an increase in the number of judges of that court, — which we do not expect, — we believe that the net saving to the community of the cost and delay of the duplication of trials we now have will fully warrant the change proposed.

By the provisions of the bill, the defendant, who has had

no choice of forum, as the plaintiff has had in the bringing of the suit, is protected in his constitutional right of trial by jury by being enabled, upon filing a bond of \$200 applicable to such judgment as may be rendered against him, to retain his right of appeal upon payment into court of costs.

This tendency will be strengthened by the requirement of a jury fee in the Superior Court, and the provision that no costs can be recovered in a suit brought originally in the Superior Court unless judgment for at least \$200 shall be recovered.

While the provisions of the legislation recommended include the jurisdiction of the present trial justices, the commission desire to state that in their opinion the office of trial justice, so far as civil jurisdiction is concerned, could very well be abolished. There are now fourteen trial justices in Massachusetts, — seven in Essex, three in Middlesex, one in Nantucket and three in Worcester. Only three of the ten replying to the request of the commission for data reported that they had any civil business, and one of the three reported only one case tried.

The judges of the Land Court inform us that the work of this court is gradually falling behind, in consequence of the right of appeal to the Superior Court now permitted. We recommend that a party who intends to claim a trial by jury shall give early notice of his intention, and that thereupon issues for a jury shall be at once framed in the Land Court and transferred to the Superior Court for trial by jury. This will prevent expenditure of time in trial of questions of fact in the Land Court, when the decision of the Land Court on such issues is not to be final.

In the Land Court, as in the Probate Courts and in Police, District and Municipal Courts and before trial justices, the right of trial by jury is little valued or desired by a party until a decision adverse to him has been made.

We have aimed to secure prompt, efficient and final disposition of actions in the police, district and municipal courts and before trial justices, speedier and better trials by

jury in the Superior Court, more efficacious administration of equity, better administration of divorce and questions arising out of the family relations, earlier determination of issues of fact in Probate and Land Court matters, a quicker resort to the Supreme Judicial Court on appeals or exceptions and greater ease and increased efficiency in the work of that court. These results will, in our judgment, be accomplished by the bill presented without an increase in our judicial machinery or an inroad upon our well-tried judicial system, and with little, if any, necessary additional expense to the public.

ROBERT M. MORSE.

WILLIAM CUSHING WAIT.

CHARLES B. BARNES, JR.

TABLE No. 1. — *Population.*

COUNTY.	1880.	1885.	1890.	1895.	1900.	1905.
Barnstable, .	31,897	29,845	29,172	27,654	27,826	26,831
Berkshire, .	69,032	73,828	81,108	86,292	95,667	98,330
Bristol, .	139,040	154,498	186,465	219,019	252,029	269,257
Dukes, .	4,300	4,135	4,369	4,288	4,561	4,551
Essex, .	244,535	263,727	299,995	330,393	357,030	381,181
Franklin, .	36,001	37,449	38,610	40,145	41,209	43,362
Hampden, .	104,142	116,764	135,713	152,938	175,603	196,013
Hampshire, .	47,232	48,472	51,859	54,710	58,320	62,227
Middlesex, .	317,830	357,311	431,167	499,217	565,696	608,499
Nantucket, .	3,727	3,142	3,268	3,016	3,006	2,930
Norfolk, .	96,507	102,142	118,950	134,819	151,539	167,537
Plymouth, .	74,018	81,680	92,700	101,498	113,985	127,932
Suffolk, .	387,927	421,109	484,780	539,799	611,417	652,362
Worcester, .	226,897	244,039	280,787	306,445	346,958	362,668
Totals, .	1,783,085	1,938,141	2,238,943	2,500,183	2,805,346	3,003,680

Increase of population from 1880 to 1905, 1,220,595, or 69 + per cent.

TABLE No. 2. — *Valuation.*

COUNTY.	1880.	1885.	1890.	1896.	1900.	1905.
Barnstable,	\$16,835,435	\$19,544,279	\$20,275,519	\$24,800,217	\$26,769,898	\$28,707,521
Berkshire,	40,250,128	40,116,861	45,144,341	51,174,990	63,174,116	70,064,378
Bristol,	117,536,662	122,088,344	131,087,166	170,682,508	195,928,601	209,715,865
Dukes,	3,021,246	3,367,097	3,511,874	4,019,210	4,399,843	4,686,967
Essex,	174,272,302	195,908,993	222,890,369	261,480,591	288,569,627	319,572,291
Franklin,	18,122,573	18,521,516	20,888,382	23,923,963	24,558,193	26,226,214
Hampden,	80,094,133	85,721,940	94,329,459	124,939,003	159,510,354	170,382,311
Hampshire,	27,245,863	28,313,166	31,039,944	32,165,226	35,447,982	38,036,060
Middlesex,	299,160,880	315,911,919	359,100,512	466,205,179	556,345,153	599,838,280
Nantucket,	2,446,936	2,941,598	3,220,702	3,188,588	3,469,778	3,570,966
Norfolk,	97,736,628	113,187,174	137,703,282	180,133,435	225,552,715	250,844,139
Plymouth,	40,991,609	55,468,316	61,034,886	73,212,943	85,530,715	94,539,878
Suffolk,	816,955,635	748,126,126	844,851,113	1,017,806,896	1,220,797,366	1,321,733,017
Worcester,	151,474,149	169,997,408	181,766,488	220,201,780	264,691,745	282,279,541
Totals,	\$1,886,144,179	\$1,909,214,737	\$2,156,844,037	\$2,653,934,509	\$3,154,746,086	\$3,420,197,428

Increase of valuation from 1880 to 1905, \$1,534,053,249, or 83 + per cent.

TABLE NO. 3.—*Cost of holding Civil Terms in Supreme Judicial Court (Nisi Prius) and in Superior Court for Year ending Jan. 1, 1909.*

COUNTY.	Expenses Supreme Judicial Court.	SUPERIOR COURT.			
		Total Expenses, exclusive of Clerk and Clerk Hire.	Clerk's Salary.	Clerk Hire.	Stenographer.
Barnstable,	\$20 20	\$1,345 84	\$1,250 00	—	\$81 00
Berkshire,	42 00	5,386 54	2,800 00	\$1,485 00	493 50
Bristol,	94 00	28,970 82	4,000 00	1,800 00	2,128 34
Dukes, ¹	—	525 97	600 00	—	84 25
Essex,	1,019 20	27,915 40	5,200 00	10,964 00	3,337 00
Franklin,	36 70	3,025 47	2,000 00	828 00	412 00
Hampden,	30 70	13,010 81	3,500 00	4,581 09	1,249 70
Hampshire,	30 75	4,278 70	2,400 00	1,700 00	334 20
Middlesex,	3,147 85	59,259 30	6,000 00	16,542 00	2,500 00
Nantucket, ¹	—	251 65	600 00	—	31 00
Norfolk,	78 50	19,715 62	3,500 00	4,303 50	1,644 32
Plymouth,	120 82	10,709 43	2,700 00	1,168 00	734 20
Suffolk,	34,513 82	296,744 61 ²	6,000 00	67,332 87	25,687 20
Worcester,	588 32	27,509 07	5,200 00	11,128 24	2,692 37
Totals,	\$39,722 86	\$498,649 23	\$45,750 00	\$121,832 70	\$41,409 08

¹ There is no sitting of the Supreme Judicial Court in the counties of Dukes County and Nantucket.² Included in this are fees to auditors and referees, \$25,532.76.

TABLE No. 3. — *Cost of holding Civil Terms, etc.* — Concluded.

	COUNTY.	SUPERIOR COURT.			
		Officers' Fees or Salaries, and Expenses.	Jurors' Fees and Travel.	Jurors' Refreshments.	Service of Venires.
Barnstable,	.	\$243 50	\$946 46	\$24 00	\$50 38
Berkshire,	.	935 70	3,793 80	48 75	114 79
Bristol,	.	3,757 00	22,249 96	430 40	405 12
Dukes,	.	85 55	288 92	13 00	54 25
Essex,	.	5,343 00	18,446 28	458 25	330 95
Franklin,	.	539 20	1,855 17	62 55	156 55
Hampden,	.	2,283 50	9,162 72	116 00	198 89
Hampshire,	.	669 30	3,120 20	33 80	121 20
Middlesex,	.	12,492 15	45,740 05	644 00	182 20
Nantucket,	.	40 00	165 00	—	15 65
Norfolk,	.	3,540 60	14,040 72	312 00	163 35
Plymouth,	.	2,424 10	7,184 40	76 05	290 68
Suffolk,	.	69,654 00	105,910 04	1,869 25	758 49
Worcester,	.	2,608 70	10,741 34	99 25	244 17
Totals,	.	\$104,615 80	\$243,645 06	\$4,187 30	\$3,036 67

TABLE NO. 4. — *Place and Length of Sitzings of Supreme Judicial Court, in Banc, with Number of Cases argued and submitted on Brief, together with Cases pending, for Year ending Sept. 1, 1909.*

PLACE OF SITTING.	Length of Sitting.	Days.	No. Cases argued Orally.	No. Cases submitted on Brief.	No. Cases argued Orally and pending September 1.	No. Cases submitted on Brief and pending September 1.
Pittsfield,	Sept. 8, 1908,	1	3	1	—	—
Northampton,	Sept. 15, 1908,	1	3	1	—	—
Springfield,	Sept. 22, 1908,	1	5	9	—	—
Worcester,	Sept. 28, 29, 1908,	2	15	13	1	—
Taunton,	Oct. 26, 27, 1908,	2	21	4	1	2
Salem,	Nov. 4, 5, 6, 1908,	3	24	9	2	1
Boston,	Nov. 9-Dec. 11, 1908,	19	110	16	—	—
	Jan. 11-29, 1909,	15	73	14	10	4
	Mar. 2-25, 1909,	20	87	19	—	—
Totals,		64	341	86	14	7

Recapitulation.

Total number of cases argued,	341	Number argued and pending September 1,	14
Total number of cases submitted on brief,	86	Number submitted on brief and pending September 1,	7
	<u>427</u>		<u>21</u>

NOTE. — Of the 21 cases pending Sept. 1, 1909, 20 cases had been decided by Nov. 24, 1909.

TABLE No. 5. — *Total Number of Cases from Each County heard by Supreme Judicial Court, in Banc, with Number argued and submitted on Brief at Different Places of Sitting of Court.*

COUNTY.	Total No. Cases heard from Each County.	No. Cases argued Orally from Each County.	PLACE OF SITTING OF SUPREME JUDICIAL COURT WHERE ARGUED, WITH No. ARGUED AT EACH PLACE.		No. Cases submitted on Brief from Each County.	PLACE OF SITTING OF SUPREME JUDICIAL COURT WHERE SUBMITTED, WITH No. SUBMITTED AT EACH PLACE.	
			Place.	No.		Place.	No.
Barnstable, . . .	3	3	Boston, . . .	3	—	—	—
Berkshire, . . .	4	3	Pittsfield, . . .	3	1	Pittsfield, . . .	1
Bristol, . . .	31	26	{ Boston, . . .	5	5	{ Boston, . . .	1
Dukes, . . .	—	—	{ Taunton, . . .	21	—	{ Taunton, . . .	4
Essex, . . .	40	30	—	—	—	—	—
Franklin, . . .	2	2	{ Salem, . . .	23	10	{ Salem, . . .	9
Hampden, . . .	14	5	{ Boston, . . .	7	—	{ Boston, . . .	1
Hampshire, . . .	2	1	Northampton, . . .	2	—	—	—
Middlesex, . . .	65	59	Springfield, . . .	5	9	Springfield, . . .	9
Nantucket, . . .	—	—	Northampton, . . .	1	1	Northampton, . . .	1
Norfolk, . . .	17	14	Boston, . . .	59	6	Boston, . . .	6
Plymouth, . . .	11	9	—	—	—	—	—
Suffolk, . . .	205	170	Boston, . . .	—	3	Boston, . . .	—
Worcester, . . .	33	19	{ Worcester, . . .	15	14	{ Worcester, . . .	13
			{ Boston, . . .	3	—	{ Boston, . . .	1
			{ Salem, . . .	1	—	—	—
Totals, . . .	427	341	—	341	86	—	86

TABLE No. 6. --- Data from Supreme Judicial Court (*Nisi Prius*) for Year ending Sept. 1, 1909.

	Barnstable.	Berkshire.	Bristol.	Dukes, ¹	Essex.	Franklin.	Hampden.	Hampshire.	Middlesex.	Nantucket, ²	Norfolk.	Plymouth.	Suffolk.	Worcester.	Totals.
Number days the court sat during year,	4	2	4	-	7	3	10	2	34	-	1	1	212	5	285
Number equity cases heard during year,	-	-	3	-	9	-	-	-	10	-	-	- ³	163	2	187
Number equity cases settled or disposed of by order of court, .	-	-	1	-	7	-	6	-	-	-	8	-	1,450 ⁴	2	1,474
Number equity cases pending Sept. 1, 1909, .	4	-	4	-	30	-	6	-	43	-	35	5	1,800	7	1,934
Number probate appeals (exclusive of contested wills) entered during year,	2	1	5	-	17	6	7	1	21	-	15	10	37	2	124
Number probate appeals (exclusive of contested wills) heard during year, .	1	-	8	-	5	6	2	1	6	-	5	1	43	6	84
Number probate appeals (exclusive of contested wills) pending Sept. 1, 1909,	1	-	6	-	30	1	10	-	18	-	32	19	75	11	203
Number contested will cases entered, .	7	3	8	-	16	2	4	2	23	-	8	4	22	16	115
Number contested will cases heard, .	2	1	6	-	11	1	3	1	10	-	-	1	28	11	75
Number contested will cases tried before jury, .	-	1	-	-	-	-	-	-	4	-	-	-	10	1	16
Number contested will cases sent to superior court for jury trials,	-	1	1	-	1	-	2	2	2	-	-	1	6	7	23
Number contested will cases pending September 1, .	3	1	7	-	13	1	3	1	12	-	9	6	15	11	82
Number petitions for extraordinary writs entered, .	-	1	1	-	16	-	-	-	4	-	2	2	46	1	73
Number petitions for extraordinary writs heard, .	-	-	1	-	13	-	-	-	3	-	-	-	60	1	78
Number petitions for extraordinary writs pending September 1, .	-	-	2	-	11	-	1	-	12	-	6	3	100	6	141

¹ There is no sitting of the Supreme Judicial Court in the counties of Dukes County and Nantucket, cases from these counties being heard in Bristol County.

² Five cases, which were heard in Suffolk County.

³ One case, which was heard in Suffolk County.

⁴ Of these, about 1,200 were on informations in equity brought by the Attorney-General against corporations for failure to comply with some statutory requirements. Upon such requirements being complied with, no further action was taken in court.

TABLE NO. 7. — *Number of Places of Sitting of Highest Court in Each State of the United States.*

NUMBER OF PLACES OF SITTING.	Number of States.	List of States.
1,	35, ¹ . . .	{ Alabama. Arkansas. Colorado. Delaware. Florida. Georgia. Illinois. Indiana. Iowa. Kansas. Kentucky. Louisiana. Maryland. Michigan. Minnesota. Mississippi. Missouri. Montana. Nebraska. Nevada. New Hampshire. New Jersey. New York. North Carolina. North Dakota. Ohio. Oklahoma. Rhode Island. South Carolina. South Dakota. Texas. Utah. Washington. Wisconsin. Wyoming.
2,	2, . . .	{ Idaho. Oregon.
3,	6, . . .	{ California. Maine. Pennsylvania. Tennessee. Virginia. West Virginia.
4,	2, . . .	{ Connecticut. Vermont.
7,	1, . . .	{ Massachusetts.

¹ The court sits at the capital in each of the 35 states, with the exception of Louisiana, where the court sits at New Orleans, the largest city.

TABLE No. 8.—*Number of Weeks assigned for Sitting of Superior Court Each Court Year (which ends June 30), from July 1, 1879, to June 30, 1909.**July 1, 1879, to June 30, 1889.*

COUNTY.	Place.	Sitting.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
Barnstable, .	Barnstable, .	{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
Berkshire, .	Pittsfield, .	{ Court, Criminal, Jury.	4	—	4	4	4	4	4	4	4	4
			10	—	10	8	8	8	8	8	8	8
Bristol, .	Taunton, .	{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
		{ Court, Criminal, Jury.	15	—	14	14	14	14	14	14	14	14
	Fall River, .	{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
		{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
	New Bedford, .	{ Court, Criminal, Jury.	14	—	12	12	12	12	12	12	12	10
Dukes, .	Edgartown, .	{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
			2	—	2	2	2	2	2	2	2	2
Essex, .	Salem, .	{ Court, Criminal, Jury.	4	—	4	4	4	4	4	4	4	4
		{ Court, Criminal, Jury.	12	—	12	12	12	12	12	12	12	15
	Newburyport, .	{ Court, Criminal, Jury.	4	—	4	4	4	4	4	4	4	4
		{ Court, Criminal, Jury.	6	—	6	6	6	6	6	6	6	6
	Lawrence, .	{ Court, Criminal, Jury.	5	—	5	5	5	5	5	5	5	6
			5	—	6	6	6	6	6	6	6	6
Franklin, .	Greenfield, .	{ Court, Criminal, Jury.	—	—	—	—	—	—	—	—	—	—
			9	—	9	9	9	9	9	9	9	9
Hampden, .	Springfield, .	{ Court, Criminal, Jury.	6	—	6	6	6	6	6	6	6	6
			13	—	14	14	14	14	14	14	14	14

Hampshire, . . .	Northampton, . . .	{ Court, Criminal, Jury, . . .	4	4	4	4	4	4	5	5	5	4	4	6
			9	9	9	9	9	9	9	9	8	8	8	8
Middlesex, . . .	{ Cambridge, . . .	{ Court, Criminal, Jury, . . .	11	11	12	12	12	12	12	12	12	12	12	12
			16	16	16	16	16	16	16	16	16	16	16	16
	{ Lowell, . . .	{ Court, Criminal, Jury, . . .	4	4	5	5	5	5	5	5	5	5	5	5
			18	18	19	19	19	19	19	19	23	23	23	24
Nantucket, . . .	Nantucket, . . .	{ Court, Criminal, Jury, . . .	2	2	2	2	2	2	2	2	2	2	2	2
Norfolk, . . .	Dedham, . . .	{ Court, Criminal, Jury, . . .	7	7	7	7	7	7	7	7	7	7	7	9
			9	9	9	9	9	10	10	10	10	10	10	11
Plymouth, . . .	{ Plymouth, . . .	{ Court, Criminal, Jury, . . .	8	8	8	8	8	10	10	10	11	11	11	15
	{ Brockton, . . .	{ Court, Criminal, Jury, . . .	8	8	8	8	8	10	10	10	11	11	11	15
			8	8	8	8	8	10	10	10	11	11	11	15
Suffolk, . . .	Boston, . . .	{ Court, Criminal, Jury, Equity, Divorce, . . .	27	31	31	31	31	31	31	31	33	33	33	84
			48	46	46	46	46	46	46	47	48	48	48	48
			76	73	73	73	73	73	73	73	98	97	97	108
			—	—	—	—	—	—	—	—	—	—	—	2
Worcester, . . .	{ Worcester, . . .	{ Court, Criminal, Jury, . . .	12	12	12	12	12	12	12	12	12	12	12	12
			19	19	19	19	19	19	19	19	20	23	23	25
	{ Fitchburg, . . .	{ Court, Criminal, Jury, . . .	2	2	2	2	2	2	2	2	2	2	2	2
			5	5	5	5	5	5	5	5	5	5	5	6
Totals, . . .			392	388	389	389	389	393	397	430	431	431	431	517

TABLE No. 8. — *Number of Weeks assigned for Sitting of Superior Court, etc. — Continued.**July 1, 1889, to June 30, 1899.*

COUNTY.	Place.	Sitting.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
Barnstable, .	Barnstable, .	{ Court, Criminal, Jury.	-	-	-	-	-	-	-	-	-	-
			4	4	4	4	4	4	4	4	4	4
Berkshire, .	Pittsfield, .	{ Court, Criminal, Jury.	-	-	-	-	-	-	-	-	-	-
			4	4	4	4	4	4	4	4	4	4
Bristol, .	Taunton, .	{ Court, Criminal, Jury.	7	7	7	7	7	8	2	2	2	2
			14	14	14	13	13	13	6	6	6	6
	Fall River, .	{ Court, Criminal, Jury.	-	-	-	-	-	-	2	2	2	2
			-	-	-	-	-	-	2	2	2	2
	New Bedford, .	{ Court, Criminal, Jury.	4	4	4	4	4	4	3	3	3	3
			11	11	12	12	11	11	7	6	6	6
Dukes, .	Edgartown, .	{ Court, Criminal, Jury.	-	-	-	-	-	-	-	-	-	-
			2	2	2	2	2	2	2	2	2	2
Essex, .	Salem, .	{ Court, Criminal, Jury.	5	5	5	5	5	5	5	5	4	4
			17	17	15	16	16	14	14	22	26	17
	Newburyport, .	{ Court, Criminal, Jury.	4	4	5	5	5	5	5	1	1	1
			7	7	6	6	6	6	6	3	4	4
	Lawrence, .	{ Court, Criminal, Jury.	8	8	8	6	6	5	5	2	2	2
			7	7	7	7	7	9	9	6	6	6
Franklin, .	Greenfield, .	{ Court, Criminal, Jury.	-	-	-	-	-	-	-	-	-	-
			9	9	9	9	9	9	8	9	9	9
Hampden, .	Springfield, .	{ Court, Criminal, Jury.	9	9	9	9	9	9	9	4	4	4
			14	15	15	23	23	31	29	27	27	27

Hampshire, . . .	Northampton, . . .	Court, Criminal, Jury, . . .	5	7	6	5	7	5	8	5	9	5	9	5	9	4	8
Middlesex, . . .	{ Cambridge, . . . Lowell, . . .	Court, Criminal, Jury, . . .	12	16	12	12	16	12	22	12	13	9	12	10	13	12	8
		Court, Criminal, Jury, . . .	6	6	6	6	6	7	7	9	4	36	36	4	36	36	4
		Court, Criminal, Jury, . . .	24	24	24	24	24	24	24	24	9	14	9	9	15	8	15
		Court, Criminal, Jury, . . .	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Nantucket, . . .	Nantucket, . . .	Court, Criminal, Jury, . . .	12	11	12	12	13	12	15	13	14	12	9	12	15	9	17
Norfolk, . . .	{ Dedham, . . . Plymouth, . . . Brockton, . . .	Court, Criminal, Jury, . . .	16	16	16	16	16	17	17	17	17	13	13	14	14	14	14
		Court, Criminal, Jury, . . .	84	48	80	36	78	36	49	35	48	34	49	34	34	35	35
		Court, Criminal, Jury, . . .	108	108	108	108	108	108	108	108	108	150	153	153	144	144	144
		Equity, Divorce, . . .	2	2	2	4	4	49	53	50	51	49	49	49	79	79	79
Suffolk, . . .	{ Boston, . . . Worcester, . . . Fitchburg, . . .	Court, Criminal, Jury, . . .	12	12	12	13	13	15	8	7	14	9	12	12	12	12	12
		Court, Criminal, Jury, . . .	26	25	25	26	26	25	25	25	25	23	21	21	21	21	21
		Court, Criminal, Jury, . . .	2	2	2	2	2	3	3	3	3	3	3	3	3	3	3
		Court, Criminal, Jury, . . .	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6
Totals, . . .	. . .	. . .	533	535	544	580	584	594	613	650	666	673					

TABLE No. 8. — *Number of Weeks assigned for Sitting of Superior Court, etc. — Concluded.**July 1, 1899, to June 30, 1909.*

COUNTY.	Place.	Sitting.	1900.	1901.	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.
Barnstable, . .	Barnstable, . .	{ Court, Criminal, Jury.	— 4	— 4	— 4	— 6	— 6	— 6	— 6	— 6	— 5	— 5
Berkshire, . .	Pittsfield, . .	{ Court, Criminal, Jury.	5 10	5 10	3 10	3 7	3 10	3 10	3 10	3 10	3 8	3 9
Bristol,	{ Taunton, . . Fall River, . . New Bedford, . .	{ Court, Criminal, Jury.	2 6 6	2 6 6	2 6 6	2 7 7	2 7 7	2 7 7	2 7 7	2 7 7	2 12 12	2 12 12
		{ Court, Criminal, Jury.	2 6 6	2 6 6	2 6 6	2 7 7	2 7 7	2 7 7	2 7 7	2 7 7	2 12 12	2 12 12
		{ Court, Criminal, Jury.	2 6 6	2 6 6	2 6 6	2 7 7	2 7 7	2 7 7	2 7 7	2 7 7	2 12 12	2 12 12
		{ Court, Criminal, Jury.	2 6 6	2 6 6	2 6 6	2 7 7	2 7 7	2 7 7	2 7 7	2 7 7	2 12 12	2 12 12
		{ Court, Criminal, Jury.	2 6 6	2 6 6	2 6 6	2 7 7	2 7 7	2 7 7	2 7 7	2 7 7	2 12 12	2 12 12
Dukes,	Edgartown, . .	{ Court, Criminal, Jury.	— 2	— 2	— 2	— 2	— 2	— 2	— 2	— 2	— 2	— 2
Essex,	{ Salem, . . Newburyport, Lawrence, . .	{ Court, Criminal, Jury.	4 5 17	4 5 15	4 5 16	7 6 16	8 6 17	7 6 17	7 6 17	9 5 29	10 8 28	13 5 29
		{ Court, Criminal, Jury.	4 5 17	4 5 15	4 5 16	7 6 16	8 6 17	7 6 17	7 6 17	9 5 29	10 8 28	13 5 29
		{ Court, Criminal, Jury.	4 5 17	4 5 15	4 5 16	7 6 16	8 6 17	7 6 17	7 6 17	9 5 29	10 8 28	13 5 29
		{ Court, Criminal, Jury.	4 5 17	4 5 15	4 5 16	7 6 16	8 6 17	7 6 17	7 6 17	9 5 29	10 8 28	13 5 29
		{ Court, Criminal, Jury.	4 5 17	4 5 15	4 5 16	7 6 16	8 6 17	7 6 17	7 6 17	9 5 29	10 8 28	13 5 29
Franklin,	Greenfield, . .	{ Court, Criminal, Jury.	— 9	— 9	— 9	— 9	— 12	— 12	— 12	— 12	— 12	— 12
Hampden,	Springfield, . .	{ Court, Criminal, Jury.	4 7 27	5 6 27	5 6 26	6 6 27	5 6 28	6 6 29	6 6 30	6 6 21	6 6 21	6 6 28

Hampshire, . . .	Northampton, . . .	{ Court, Criminal, . . . Jury, . . .	-	5	8	-	5	8	-	1	4	1	1	1	1	3
			-	5	8	-	5	8	-	4	10	4	4	4	4	5
Middlesex, . . .	{ Cambridge, . . . Lowell, . . .	{ Court, Criminal, . . . Jury, . . . Court, Criminal, . . . Jury, . . .	12	36	4	12	36	4	12	11	57	10	76	76	76	8
			15	15	15	15	15	15	15	9	9	9	9	9	9	8
Nantucket, . . .	Nantucket, . . .	{ Court, Criminal, . . . Jury, . . .	-	2	2	-	2	2	-	-	-	-	-	-	-	12
Norfolk, . . .	Dedham, . . .	{ Court, Criminal, . . . Jury, . . .	4	9	14	4	9	14	4	4	30	29	26	32	32	2
Plymouth, . . .	{ Plymouth, . . . Brockton, . . .	{ Court, Criminal, . . . Jury, . . . Court, Criminal, . . . Jury, . . .	-	14	-	-	14	-	-	3	9	9	9	9	9	3
			14	14	14	14	14	14	14	6	6	6	6	6	6	6
Suffolk, . . .	Boston, . . .	{ Court, Criminal, . . . Jury, . . . Equity, . . . Divorce, . . .	35	49	144	32	47	144	32	36	36	36	36	36	36	36
			144	144	86	144	144	86	144	252	252	252	252	252	252	252
			13	13	13	13	13	13	13	15	15	15	15	15	15	15
Worcester, . . .	{ Worcester, . . . Fitchburg, . . .	{ Court, Criminal, . . . Jury, . . . Court, Criminal, . . . Jury, . . .	9	11	21	9	11	21	9	11	11	12	13	13	13	3
			21	21	21	21	21	21	21	21	21	21	21	21	21	30
Totals, . . .			670	660	655	758	854	858	858	858	858	858	858	858	858	890

Increase in number of weeks of sitting of Superior Court in 1909 over number of weeks of sitting in 1879, 498, or 127 + per cent.

TABLE No. 9. — *Number of Civil Entries in Superior Court Each Court Year (which ends June 30), from July 1, 1879, to June 30, 1909.*
July 1, 1879, to June 30, 1889.

COUNTY.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.
Barnstable,	78	48	50	66	80	47	43	57	75	72
Berkshire,	266	233	240	222	213	275	225	222	228	227
Bristol,	503	443	454	386	424	433	401	506	558	492
Dukes,	12	9	21	21	14	8	16	18	23	21
Essex,	713	770	760	766	734	809	746	878	855	898
Franklin,	117	98	100	119	108	102	83	125	138	104
Hampden,	322	398	424	387	468	411	413	533	533	520
Hampshire,	120	109	113	98	121	99	98	119	114	118
Middlesex,	780	681	686	716	763	795	955	847	1,210	934
Nantucket,	5	5	3	3	3	8	11	16	10	15
Norfolk,	199	187	180	190	177	185	193	235	289	411
Plymouth,	131	119	155	185	173	178	204	245	262	247
Suffolk,	2,598	2,490	2,375	2,670	3,039	2,984	3,444	3,195	3,528	3,636
Worcester,	564	505	586	608	624	781	638	699	783	694
Totals,	6,408	6,095	6,147	6,437	6,883	7,165	7,470	7,695	8,606	8,389

TABLE No. 9. — *Number of Civil Entries in Superior Court, etc. — Continued.*
July 1, 1889, to June 30, 1899.

COUNTY.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
Barnstable,	66	97	77	71	104	98	85	108	95	88
Berkshire,	221	311	256	236	276	289	295	368	262	269
Bristol,	524	550	563	546	517	668	686	604	673	616
Dukes,	15	22	23	20	26	24	23	19	13	18
Essex,	863	992	991	1,023	961	1,026	1,129	1,039	1,083	1,131
Franklin,	109	119	106	121	137	171	168	143	154	139
Hampden,	579	558	617	641	520	683	606	617	645	666
Hampshire,	140	155	134	128	147	156	203	140	142	131
Middlesex,	1,149	1,323	1,383	1,411	1,454	1,687	1,702	1,667	1,773	1,775
Nantucket,	14	17	31	14	17	19	19	14	10	9
Norfolk,	323	412	338	353	362	379	503	562	601	544
Plymouth,	271	295	255	271	312	295	308	292	334	340
Suffolk,	3,979	4,582	5,008	4,976	5,729	5,533	5,524	6,293	6,683	6,772
Worcester,	799	779	820	849	699	796	913	783	956	880
Totals,	9,052	10,212	10,602	10,660	11,261	11,824	12,164	12,649	13,422	13,378

TABLE NO. 9. — *Number of Civil Entries in Superior Court, etc. — Concluded.*
July 1, 1899, to June 30, 1909.

COUNTY.	1900.	1901.	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.
Barnstable, .	67	80	101	90	71	78	67	93	58	99
Berkshire, .	282	299	282	339	267	295	232	303	253	265
Bristol, .	688	752	857	765	763	792	760	788	862	842
Dukes, .	25	17	18	16	15	12	27	28	10	17
Essex, .	1,127	1,263	1,297	1,338	1,321	1,252	1,278	1,410	1,461	1,429
Franklin, .	117	164	143	160	183	154	137	171	185	179
Hampden, .	710	836	749	817	739	745	797	856	918	798
Hampshire, .	171	168	143	150	189	125	155	155	160	138
Middlesex, .	1,781	1,937	1,913	1,989	2,211	2,373	2,486	2,409	2,427	2,431
Nantucket, .	8	18	9	12	8	6	9	7	6	8
Norfolk, .	507	597	634	637	549	622	662	628	587	612
Plymouth, .	377	391	376	440	454	540	410	425	450	562
Suffolk, .	6,609	6,422	7,345	6,740	7,418	8,046	6,366	6,833	6,824	6,698
Worcester, .	868	867	1,021	1,095	1,189	1,164	1,342	1,375	1,481	1,376
Totals, .	13,337	14,811	14,888	14,588	15,377	14,204	14,728	15,481	15,687	15,254

TABLE No. 10.—*Number of Equity Cases entered in Superior Court Each Year since 1884, when Jurisdiction was given that Court.**July 1, 1884, to June 30, 1899.*

COUNTY.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.
Barnstable.	2	—	—	1	2	4	5	11	6	5	2	7	1	3	1	6
Berkshire, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bristol.	12	8	19	19	25	30	20	21	23	18	14	22	25	27	36	27
Dukes, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Essex, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Franklin.	5	—	1	2	7	3	5	2	4	3	5	4	11	10	13	7
Hampden.	25	38	32	31	37	22	25	21	28	47	26	45	47	52	51	66
Hampshire.	8	4	2	6	5	5	8	6	12	11	12	12	16	10	11	12
Middlesex, ¹	—	—	—	—	—	—	—	—	—	70	67	69	79	79	105	101
Nantucket, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Norfolk, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Plymouth.	—	3	2	3	5	9	5	11	8	8	6	13	12	9	17	14
Suffolk, ¹	—	—	—	—	—	—	—	—	—	313	324	360	395	487	530	535
Worcester, ¹	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Totals.	52	53	56	62	81	73	68	72	81	475	456	532	586	677	764	768

¹ No separate equity docket kept until years when numbers are given.

TABLE No. 10. — *Number of Equity Cases entered in Superior Court, etc. — Concluded.*
July 1, 1899, to June 30, 1909.

COUNTY	1900.	1901.	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.
Barnstable,	4	3	8	2	4	6	7	3	4	8
Berkshire, ¹	-	-	-	-	-	18	17	14	22	24
Bristol,	39	61	37	40	38	46	53	57	60	75
Dukes, ¹	-	-	-	-	-	2	4	4	2	2
Essex, ¹	-	-	-	-	-	83	105	83	149	105
Franklin,	8	12	10	11	7	12	15	15	22	19
Hampden,	79	79	69	70	75	77	78	67	87	73
Hampshire,	12	12	7	5	10	6	3	6	12	11
Middlesex,	99	103	120	116	130	117	164	109	130	138
Nantucket, ¹	-	-	-	-	-	-	-	1	-	-
Norfolk, ¹	-	-	-	-	-	33	59	52	56	38
Plymouth,	16	24	16	24	23	19	20	16	35	31
Suffolk,	501	562	653	695	783	810	825	908	845	895
Worcester, ¹	-	-	-	-	-	76	80	71	150	87
Totals,	758	856	920	963	1,070	1,305	1,430	1,406	1,574	1,506

¹ No separate equity docket kept until years when numbers are given.

TABLE NO. 11. — *Number of Divorce Labels entered in Superior Court Each Year since 1887, when Jurisdiction was given that Court.*
1888 to 1897.

COUNTY.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.
Barnstable,	16	15	9	21	9	13	20	19	15	25
Berkshire,	33	48	42	36	51	41	59	52	49	53
Bristol,	91	80	91	79	102	103	91	118	137	125
Dukes,	1	2	1	1	4	3	8	4	3	2
Essex,	171	198	151	172	187	209	223	222	257	210
Franklin,	21	13	14	19	13	26	21	27	30	25
Hampden,	67	86	89	76	85	87	86	107	123	89
Hampshire,	20	13	27	29	22	17	18	29	18	18
Middlesex,	175	145	159	162	212	194	221	253	268	262
Nantucket,	-	-	4	1	3	1	2	-	2	3
Norfolk,	39	35	43	44	52	48	42	46	45	52
Plymouth,	64	56	66	51	64	72	74	56	60	79
Suffolk,	310	311	293	358	363	402	417	444	505	476
Worcester,	135	111	151	150	142	126	125	157	173	164
Totals,	1,153	1,113	1,140	1,199	1,296	1,334	1,405	1,552	1,681	1,564

TABLE NO. 11. — *Number of Divorce Labels entered in Superior Court, etc. — Concluded.*

1898 to 1909.

COUNTY.	1898.	1899.	1900.	1901.	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.
Barnstable,	16	23	15	15	22	24	22	16	15	19	19	17
Berkshire,	54	42	57	65	63	80	52	72	78	94	73	78
Bristol,	105	118	147	179	215	183	157	216	162	215	217	187
Dukes,	2	5	4	-	3	3	-	1	4	2	3	4
Essex,	212	275	253	280	326	301	304	300	362	360	368	359
Franklin,	25	25	28	29	44	40	36	24	33	39	43	42
Hampden,	106	105	112	152	128	158	145	151	153	148	148	142
Hampshire,	19	20	36	27	19	27	37	31	29	31	23	23
Middlesex,	299	305	329	373	359	412	431	457	437	473	255	448
Nantucket,	3	2	2	5	2	1	1	3	3	1	2	4
Norfolk,	51	59	50	73	73	57	83	98	94	88	84	112
Plymouth,	79	85	76	104	104	126	132	125	131	145	139	126
Suffolk,	488	466	554	593	720	687	680	664	747	749	715	763
Worcester,	185	185	214	193	245	178	237	264	262	309	309	254
Totals,	1,644	1,715	1,877	2,088	2,323	2,277	2,344	2,422	2,560	2,673	2,398	2,559

Increase in number of divorce cases entered in Superior Court in 1909 over number entered in 1898, 1,406, or 121 + per cent.

TABLE No. 12. — *Jury Cases, Civil, tried in Superior Court during Year ending June 30, Each Year from 1905 to 1909, with Number of Days occupied Each Year, from Reports made by Clerks of Court to Secretary of Commonwealth.*

COUNTY.	1905.		1906.		1907.		1908.		1909.	
	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.
Barnstable, ¹	6	10	9	8	14	12	5	14	19	17
Berkshire,	18	25	12	18	19	40	24	34	20	31
Bristol,	112	120	117	120	112	121	151	152	113	138
Dukes, ¹	2	2	1	2	2	4	5	6	4	4
Essex,	122	175	130	200	219	235	159	225	188	225
Franklin,	17	34	29	36	25	23	15	24	30	31
Hampden,	56	94	48	86	51	88	65	96	65	97
Hampshire,	16	19	18	24	48	32	24	36	20	28
Middlesex,	287	297	283	307	326	316	460	367	412	386
Nantucket, ¹	2	1	2	2	4	1	4	2	2	1
Norfolk,	113	146	86	135	102	140	98	151	77	121
Plymouth,	51	No Data	40	55	52	63	59	56	61	68
Suffolk,	1,080	1,218	1,077	1,206	1,010	1,148	1,080	1,096	921	989
Worcester,	126	128	141	122	130	120	131	132	104	126
Totals,	2,008	2,269	1,993	2,321	2,114	2,343	2,280	2,391	2,036	2,262

¹ Days occupied estimated from number of days reported for trial of all cases.

TABLE No. 13. — *Jury Waived Cases tried in Superior Court, during Year ending June 30, Each Year from 1905 to 1909, with Number of Days occupied Each Year, from Reports made by Clerks of Court to Secretary of Commonwealth.*

COUNTY.	1905.		1906.		1907.		1908.		1909.	
	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.
Barnstable, ¹	9	2	7	—	22	—	15	—	3	2
Berkshire,	23	10	8	5	15	18	7	9	14	6
Bristol,	38	15	41	17	29	20	44	22	18	21
Dukes, ²	—	—	—	—	—	—	1	2	2	2
Essex, ³	51	45	26	—	47	70	39	75	52	32
Franklin,	18	12	7	3½	10	7	18	6	6	2
Hampden, ²	23	52	24	39	30	18	18	26	34	20
Hampshire,	5	18	5	7	41	10	3	4	1	1
Middlesex,	80	54	100	48	61	52	75	34	156	29
Nantucket,	—	—	—	—	2	1	—	—	—	—
Norfolk, ²	113	13	10	19	47	21	6	19	12	6
Plymouth, ²	123	—	30	20	8	20	18	23	17	19
Suffolk,	233	840	202	110	226	143	241	127	165	127
Worcester, ²	52	46	54	35	49	40	32	34	33	28
Totals,	768	1,107	514	303½	587	420	517	379	513	295

¹ Days occupied included in number of days reported for trial of all cases.

² Days occupied included in number of days reported for trial of jury waived and equity cases.

TABLE No. 14. — *Equity Cases tried in Superior Court, during Year ending June 30, each Year from 1905 to 1909, with Number of Days occupied Each Year, from Reports made by Clerks of Court to Secretary of Commonwealth.*

COUNTY.	1905.		1906.		1907.		1908.		1909.	
	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.	No. Cases.	No. Days occupied.
Barnstable, ¹	6	—	3	—	4	—	1	—	2	2
Berkshire,	8	9	6	5	5	7	5	3½	9	9
Bristol,	24	10	16	10	8	7	24	8	20	7
Dukes, ¹	2	—	1	—	1	—	—	—	2	— ¹
Essex, ²	30	—	17	55	11	—	21	—	21	32
Franklin,	1	1	2	½	—	½	3	2	3	2
Hampden, ²	16	—	15	—	11	9	13	26	8	11
Hampshire, ²	—	—	—	—	3	10	—	—	1	1
Middlesex,	52	3	79 ³	4	64 ⁴	3	57 ⁶	4	62 ⁶	6
Nantucket,	—	—	—	—	1	1	—	—	—	—
Norfolk, ²	12	4	12	—	15	—	27	—	27	4
Plymouth, ²	8	—	5	—	9	—	11	2	10	3
Suffolk,	238	373 ⁷	233	401 ⁷	204	476 ⁷	207	184	196	180
Worcester, ²	18	—	19	14	15	16	36	16	27	18
Totals,	415	400	408	489½	351	529½	405	249½	388	275

¹ Days occupied included in number of days reported for trial of all cases.² Days occupied included in number of days reported for trial of jury waived cases.³ Of these, 70 were heard in Suffolk County.⁴ Of these, 60 were heard in Suffolk County.⁵ Of these, 53 were heard in Suffolk County.⁶ Of these, 50 were heard in Suffolk County.⁷ The number of days reported for years 1905, 1906 and 1907 include the days a judge sat in the "motion session."

TABLE No. 15. — *Jury Cases in Superior Court pending July 1, 1908, and entered, marked on Jury Trial List, tried, and disposed of by Agreement or by Order of Court, during Year ending June 30, 1909, and Number pending June 30, 1909.*

COUNTY.	No. Jury Cases pending July 1, 1908.	No. Jury Cases entered, Year ending June 30, 1909.	Total No. Jury Cases pending and entered.	No. Cases marked on Jury List.	No. Jury Cases tried, Year ending June 30, 1909.	No. Jury Cases disposed of by Agreement or by Order of Court, Year ending June 30, 1909.	Total No. Jury Cases tried and disposed of by Agreement or by Order of Court.	No. Jury Cases pending June 30, 1909.
Barnstable,	53	43	96	44	19	38	57	39
Berkshire,	184	96	280	114	20	90	110	174
Bristol,	874	466	1,340	638	113	470	583	757
Dukes,	11	4	15	8	4	—	4	11
Essex,	1,610	712	2,322	1,453	188	526	714	1,617
Franklin,	143	71	214	104	30	112	142	72
Hampden,	533	374	907	513	65	323	388	519
Hampshire,	129	62	191	94	20	83	103	88
Middlesex,	2,644	1,276	3,920	2,600	412	783	1,195	2,725
Nantucket,	4	4	8	3	2	1	3	4
Norfolk,	793	347	1,140	636	77	258	335	805
Plymouth,	338	175	513	290	61	167	228	285
Suffolk,	10,793	3,910	14,703	7,421	921	2,922	3,843	10,877
Worcester,	1,266	810	2,076	972	104	490	594	1,482
Totals,	19,375	8,350	27,725	14,890	2,036	6,263	8,299	19,455

TABLE NO. 16. — *Jury Waived Cases in Superior Court pending July 1, 1908, and entered, marked on Jury Waived Trial List, tried, and disposed of by Agreement or by Order of Court, during Year ending June 30, 1909, and Number pending June 30, 1909.*

County.	No. Jury Waived Cases pending July 1, 1908.	No. Jury Waived Cases entered, Year ending June 30, 1909.	Total No. Jury Waived Cases pending and entered.	No. Jury Waived Cases marked on Jury Waived List.	No. Jury Waived Cases tried, Year ending June 30, 1909.	No. Jury Waived Cases disposed of by Agreement or by Order of Court, Year ending June 30, 1909.	Total No. Jury Waived Cases tried and disposed of by Agreement or by Order of Court.	No. Jury Waived Cases pending June 30, 1909.
Barnstable,	55	14	69	4	3	31	34	35
Berkshire, .	137	67	204	102	14	73	87	117
Bristol, .	242	114	356	125	18	130	148	208
Dukes, .	21	7	28	4	2	2	4	24
Essex, .	392	253	645	286	52	137	189	456
Franklin, .	149	47	196	58	6	104	110	86
Hampden, .	278	209	487	228	34	170	204	283
Hampshire, .	51	42	93	53	1	36	37	56
Middlesex, .	1,045	569	1,614	265	156	134	290	1,324
Nantucket, .	—	—	—	—	—	—	—	—
Norfolk, .	257	115	372	84	12	116	128	244
Plymouth, .	327	230	557	61	17	156	173	384
Suffolk, .	1,859	1,130	2,989	570	165	906	1,071	1,918
Worcester, .	668	225	893	190	33	167	200	693
Totals,	5,481	3,022	8,503	2,030	513	2,162	2,675	5,828

TABLE NO. 17. — *Equity Cases in Superior Court pending July 1, 1908, and entered, marked on Equity Trial List, tried, and disposed of by Agreement or by Order of Court, during Year ending June 30, 1909, and Number pending June 30, 1909.*

COUNTY.	No. Equity Cases pending July 1, 1908.	No. Equity Cases entered, Year ending June 30, 1909.	Total No. Equity Cases pending and entered.	No. Equity Cases marked on Equity List.	No. Equity Cases tried, Year ending June 30, 1909.	No. Equity Cases disposed of by Agreement or by Order of Court, Year ending June 30, 1909.	Total No. Equity Cases tried and disposed of by Agreement or by Order of Court.	No. Equity Cases pending June 30, 1909.
Barnstable,	20	8	28	- 1	2	3	5	23
Berkshire,	51	24	75	- 1	9	21	30	45
Bristol,	185	75	260	56	20	49	69	191
Dukes,	10	2	12	3	2	1	4	9
Essex,	246	105	351	100	21	52	73	278
Franklin,	82	19	101	15	3	46	49	52
Hampden,	189	73	262	68	8	104	112	150
Hampshire,	29	11	40	9	1	8	9	31
Middlesex,	471	138	609	48	62	12	74	535
Nantucket,	-	-	-	-	-	-	-	-
Norfolk,	98	38	136	13	27	18	45	91
Plymouth,	44	31	75	13	10	14	24	51
Suffolk,	2,974	895	3,869	433	196	575	771	3,098
Worcester,	354	87	441	68	27	60	87	354
Totals,	4,753	1,506	6,259	826	388	963	1,351	4,908

¹ No separate equity list, with jury waived.

TABLE NO. 18. — *Libels for Divorce marked for Hearing and heard during Year ending June 30, 1909, with Number of Days occupied in Hearings, and Number of Libels for Divorce pending July 1, 1909, in Superior Court.*

COUNTY.	No. Libels marked for Hearing.	No. Libels for Divorce heard.	Uncontested.	Contested.	Days occupied hearing Divorce Libels.	No. Libels for Divorce pending July 1, 1909.	Uncontested.	Contested.
Barnstable,	18	18	13	5	2	22	13	9
Berkshire,	75	43	39	4	4	62	55	7
Bristol,	172	112	105	7	15	405	319	86
Dukes,	4	4	3	1	$\frac{1}{2}$	7	7	—
Essex,	388	281	242	39	19	420	314	106
Franklin,	48	37	33	4	6	65	47	18
Hampden,	151	116	114	2	10	107	83	24
Hampshire,	22	16	14	2	1 $\frac{1}{2}$	30	23	7
Middlesex,	489	255	191	64	17	690	530	160
Nantucket,	3	3	3	—	$\frac{1}{2}$	2	2	—
Norfolk,	111	67	49	18	9	174	131	43
Plymouth,	126	113	108	5	15	160	108	52
Suffolk,	674	584	532	52	72	1,346	1,090	256
Worcester,	234	214	206	8	12	524	394	130
Totals,	2,515	1,863	1,652	211	183 $\frac{1}{2}$	4,014	3,116	898

TABLE No. 19. — *Date of Entry in Superior Court of Contract Cases longest entered and most recently entered, tried, settled and pending during Year ending June 30, 1909.*

JURY.

COUNTY.	LONGEST ENTERED.			MOST RECENTLY ENTERED.		
	Tried.	Settled.	Pending.	Tried.	Settled.	Pending.
Barnstable,	Dec., 1907	Jan., 1907	July, 1902	Aug., 1908	Feb., 1909	Mar., 1909
Berkshire,	Sept., 1907	May, 1904	Feb., 1903	Feb., 1909	May, 1909	June, 1909
Bristol,	Nov., 1902	Feb., 1894	Apr., 1901	July, 1908	Apr., 1909	June, 1909
Dukes,	July, 1905	July, 1908	Jan., 1895	July, 1905	July, 1908	June, 1909
Essex,	May, 1903	Sept., 1899	Jan., 1896	Sept., 1908	May, 1909	June, 1909
Franklin,	Apr., 1907	May, 1906	June, 1898	Nov., 1908	Nov., 1908	June, 1909
Hampden,	Feb., 1907	May, 1904	June, 1898	July, 1908	Mar., 1909	June, 1909
Hampshire,	Sept., 1906	Sept., 1907	Jan., 1901	Oct., 1908	Mar., 1908	May, 1909
Middlesex,	June, 1900	Dec., 1899	July, 1888	Feb., 1909	May, 1909	June, 1909
Nantucket,	Aug., 1908	—	May, 1909	Aug., 1908	—	June, 1909
Norfolk,	Mar., 1906	Jan., 1904	Nov., 1898	Nov., 1908	Mar., 1909	June, 1909
Plymouth,	Feb., 1904	Aug., 1905	June, 1896	Nov., 1908	May, 1909	June, 1909
Suffolk,	Aug., 1902	July, 1896	Apr., 1892	Aug., 1908	Mar., 1909	June, 1909
Worcester,	Sept., 1906	Sept., 1901	Dec., 1899	July, 1908	June, 1909	June, 1909

TABLE No. 19. — *Date of Entry in Superior Court of Contract Cases, etc. — Concluded.*

JURY WAIVED.

COUNTY.	LONGEST ENTERED.			MOST RECENTLY ENTERED.		
	Tried.	Settled.	Pending.	Tried.	Settled.	Pending.
Barnstable,	July, 1903	Aug., 1905	Dec., 1899	Mar., 1909	Apr., 1909	Feb., 1909
Berkshire,	Jan., 1903	Mar., 1904	Mar., 1901	Apr., 1908	May, 1909	June, 1909
Bristol,	May, 1906	June, 1904	Oct., 1892	Feb., 1908	Apr., 1909	June, 1909
Dukes,	July, 1904	Sept., 1908	Nov., 1895	July, 1904	June, 1909	Apr., 1909
Essex,	May, 1906	Dec., 1902	Aug., 1898	Mar., 1909	May, 1909	June, 1909
Franklin,	Jan., 1906	Dec., 1904	Mar., 1898	Nov., 1907	Oct., 1908	June, 1909
Hampden,	May, 1907	Dec., 1903	Nov., 1894	Apr., 1909	May, 1909	June, 1909
Hampshire,	-	Nov., 1906	Aug., 1904	-	Jan., 1909	June, 1909
Middlesex,	June, 1905	Dec., 1900	May, 1888	Apr., 1909	Apr., 1909	June, 1909
Nantucket,	-	-	-	-	-	-
Norfolk,	June, 1906	Aug., 1901	Jan., 1901	Sept., 1908	Apr., 1909	June, 1909
Plymouth,	Jan., 1903	Feb., 1906	Feb., 1903	Feb., 1908	Apr., 1909	June, 1909
Suffolk,	May, 1900	Sept., 1897	July, 1895	Mar., 1909	May, 1909	June, 1909
Worcester,	May, 1903	Apr., 1904	June, 1895	Apr., 1909	June, 1909	June, 1909

TABLE No. 20. — *Date of Entry in Superior Court of Tort Cases longest entered and most recently entered, tried, settled and pending during Year ending June 30, 1909.*

JURY.

COUNTY.	LONGEST ENTERED.			MOST RECENTLY ENTERED.		
	Tried.	Settled.	Pending.	Tried.	Settled.	Pending.
Barnstable,	Mar., 1907	Dec., 1907	Oct., 1908	Mar., 1909	Apr., 1909	Mar., 1909
Berkshire,	Aug., 1904	Sept., 1904	May, 1906	Sept., 1908	Feb., 1909	June, 1909
Bristol,	Dec., 1903	Mar., 1899	July, 1902	Oct., 1908	Feb., 1909	June, 1909
Dukes,	-	-	-	-	-	-
Essex,	Oct., 1903	Oct., 1901	June, 1897	Jan., 1909	June, 1909	June, 1909
Franklin,	May, 1907	Oct., 1904	Mar., 1899	Jan., 1909	Feb., 1909	June, 1909
Hampden,	Feb., 1906	May, 1904	Sept., 1902	Feb., 1909	Apr., 1909	June, 1909
Hampshire,	Dec., 1906	Apr., 1908	May, 1904	Oct., 1908	Jan., 1909	June, 1909
Middlesex,	Jan., 1903	Sept., 1903	Feb., 1894	Feb., 1909	May, 1909	June, 1909
Nantucket,	Mar., 1909	-	Mar., 1909	Mar., 1909	-	June, 1909
Norfolk,	May, 1904	Aug., 1904	Mar., 1901	Nov., 1908	Mar., 1909	June, 1909
Plymouth,	Sept., 1901	Jan., 1907	May, 1904	Dec., 1908	Mar., 1909	June, 1909
Suffolk,	Jan., 1899	Jan., 1895	Oct., 1891	July, 1908	June, 1909	June, 1909
Worcester,	Nov., 1905	Aug., 1902	Apr., 1894	Jan., 1909	Apr., 1909	June, 1909

TABLE No. 20. — *Date of Entry in Superior Court of Tort Cases, etc. — Concluded.*
JURY WAIVED.

COUNTY.	LONGEST ENTERED.			MGST RECENTLY ENTERED.		
	Tried.	Settled.	Pending.	Tried.	Settled.	Pending.
Barnstable,	Apr., 1908	-	Dec., 1899	Apr., 1908	-	Apr., 1909
Berkshire,	July, 1903	Dec., 1909	Apr., 1908	Jan., 1909	July, 1908	Apr., 1909
Bristol,	June, 1905	Aug., 1907	Oct., 1901	Oct., 1908	Feb., 1909	May, 1909
Dukes,	-	-	-	-	-	-
Essex,	Jan., 1907	Sept., 1904	Apr., 1895	Apr., 1909	Apr., 1909	May, 1909
Franklin,	July, 1908	Mar., 1904	May, 1906	July, 1908	July, 1908	June, 1909
Hampden,	Jan., 1906	May, 1905	Oct., 1907	May, 1908	Mar., 1909	Mar., 1909
Hampshire,	-	June, 1908	Aug., 1905	-	June, 1908	June, 1909
Middlesex,	June, 1905	June, 1904	Apr., 1894	Jan., 1909	Apr., 1909	June, 1909
Nantucket,	-	-	-	-	-	-
Norfolk,	Feb., 1907	Apr., 1901	Dec., 1902	Aug., 1908	Mar., 1909	June, 1909
Plymouth,	Aug., 1908	Jan., 1908	Sept., 1905	Feb., 1909	Apr., 1909	June, 1909
Suffolk,	Apr., 1897	Apr., 1904	Apr., 1893	Apr., 1909	May, 1909	June, 1909
Worcester,	Apr., 1909	July, 1906	May, 1896	Apr., 1909	Nov., 1908	June, 1909

TABLE No. 21. — *Contract Cases in Superior Court tried, settled and pending during the Year ending June 30, 1909.*

	COUNTY.										No. Cases tried.	No. Cases settled.	No. Cases pending June 30,
Barnstable,	6	8	40
Berkshire,	15	65	186
Bristol,	69	127	544
Dukes,	4	3	18
Essex,	62	243	1,130
Franklin,	20	21	120
Hampden,	49	138	553
Hampshire,	4	26	69
Middlesex,	135	352	1,548
Nantucket,	3	1	4
Norfolk,	24	71	421
Plymouth,	18	63	197
Suffolk,	335	857	5,753
Worcester,	59	58	991
Totals,	803	2,033	11,574

TABLE No. 22. — Tort Cases in Superior Court tried, settled and pending during the Year ending June 30, 1909.

COUNTY.	OF CASES TRIED —				OF CASES SETTLED —				OF CASES PENDING JUNE 30 —			
	All Cases tried.	Master and Servant.	Street Railway.	Rail-road.	All Cases settled.	Master and Servant.	Street Railway.	Rail-road.	All Cases pending June 30.	Master and Servant.	Street Railway.	Rail-road.
Barnstable,	11	1	—	2	15	1	—	3	30	—	—	7
Berkshire,	15	7	4	—	31	4	6	2	71	22	26	9
Bristol,	68	8	21	10	129	31	32	13	472	54	122	42
Dukes,	—	—	—	—	—	—	—	—	—	—	—	—
Essex,	150	24	62	11	278	77	50	15	973	133	215	50
Franklin,	18	1	1	1	25	5	1	4	55	2	8	5
Hampden,	39	2	19	—	163	50	28	22	302	59	98	19
Hampshire,	14	—	7	3	22	4	3	12	58	3	17	7
Middlesex,	359	49	165	31	565	90	261	54	2,197	244	926	108
Nantucket,	—	—	—	—	—	—	—	—	—	—	—	—
Norfolk,	59	7	29	7	87	14	33	9	497	64	138	71
Plymouth,	35	4	9	9	52	15	11	8	209	—	73	19
Suffolk,	681	38	474	19	1,316	112	485	40	5,585	621	1,923	234
Worcester,	76	8	20	8	98	11	34	14	873	72	231	52
Totals,	1,525	149	811	101	2,781	414	944	196	11,322	1,274	3,777	623

TABLE No. 23. — *Results of Jury Trials in Superior Court, in Tort and Contract Cases for Year ending June 30, 1909.*

COUNTRY.	TORT.					CONTRACT.								
	No. Trials.	Verdicts for Plain-tiff.	Verdicts for Defendant.	Verdicts ordered for Plain-tiff.	Verdicts ordered for Defendant.	Dis-agreements.	Cases settled during Trial.	No. Trials.	Verdicts for Plain-tiff.	Verdicts for Defendant.	Verdicts ordered for Plain-tiff.	Verdicts ordered for Defendant.	Dis-agreements.	Cases settled during Trial.
Barnstable, . . .	15	7	4	—	1	—	3	7	6	—	—	—	—	1
Berkshire, . . .	13	11	—	—	2	—	—	7	4	2	—	—	—	1
Bristol, . . .	72	25	20	2	12	5	8	32	21	7	—	—	4	—
Dukes, . . .	—	—	—	—	—	—	—	4	4	—	—	—	—	—
Essex, . . .	153	77	52	—	15	8	1	33	23	6	1	3	—	—
Franklin, . . .	17	8	5	—	—	4	—	12	11	1	—	—	—	—
Hampden, . . .	38	18	8	—	8	—	4	27	17	6	1	—	2	1
Hampshire, . . .	15	9	2	—	3	—	1	4	3	1	—	—	—	—
Middlesex, . . .	323	144	122	—	18	14	25	87	53	24	3	2	4	1
Nantucket, . . .	1	—	—	—	—	1	—	1	1	—	—	—	—	—
Norfolk, . . .	60	29	20	1	6	1	3	16	13	2	1	—	—	—
Plymouth, . . .	35	11	19	—	5	—	—	18	12	3	—	2	1	—
Suffolk, . . .	615	206	203	4	114	30	58	278	171	64	14	17	1	11
Worcester, . . .	76	45	16	—	13	1	1	28	18	7	—	2	—	1
Totals, . . .	1,433	590	471	7	197	64	104	554	357	123	20	26	12	16

TABLE No. 24. — Results of Jury Trials in Superior Court, in Suffolk County, in Tort and Contract Cases, for Year ending June 30, 1909.

Session.	TORT.						CONTRACT.					
	No. Trials.	Verdicts for Plain-tiff.	Verdicts for Defendant.	Verdicts ordered for Plain-tiff.	Verdicts ordered for Defendant.	Cases settled during Trial.	No. Trials.	Verdicts for Plain-tiff.	Verdicts for Defendant.	Verdicts ordered for Plain-tiff.	Verdicts ordered for Defendant.	Cases settled during Trial.
First session,	115	41	40	2	21	6	9	3	4	—	—	2
Second session,	123	34	46	—	16	22	9	7	1	—	—	1
Third session,	130	46	37	—	23	18	11	6	1	2	—	2
Fourth session,	116	23	28	1	43	9	9	3	2	—	3	1
Fifth session,	7	4	2	—	1	—	—	—	—	—	—	—
Sixth session,	51	23	25	—	3	—	128	83	28	7	6	3
Seventh session,	73	35	25	1	7	3	112	69	28	5	8	2
Totals,	615	206	203	4	114	58	278	171	64	14	17	11

TABLE NO. 25. — *Data as to Jury Fees in the Different States of the United States.*

Number.	STATES.	Fees.
25 States which have jury fee,	California, . . .	\$24.
	Colorado, . . .	\$5.
	Connecticut, . . .	\$6.
	Georgia, . . .	\$21.
	Idaho, . . .	Jury mileage and per diem charge.
	Illinois, . . .	\$6 in Municipal Court of Chicago.
	Indiana, . . .	\$4.50.
	Iowa, . . .	\$6.
	Kansas, . . .	\$6.
	Kentucky, . . .	\$4.
	Louisiana, . . .	\$12.
	Michigan, . . .	Jurors' fees.
	Minnesota, . . .	\$3.
	Mississippi, . . .	\$2 a day in eminent domain cases
	Missouri, . . .	\$12.
	Montana, . . .	Jury fees taxed to losing party.
	Nebraska, . . .	\$5.
	Nevada, . . .	Jury fees to be paid by plaintiff, who may tax them as costs.
	New Jersey, . . .	Party who demands jury in District Court pays "cost of venire."
	Oklahoma, . . .	\$12 in District Court (a day), \$6 in Justice Court (a day).
	Oregon, . . .	\$12.
	Texas, . . .	Payment of a jury fee a condition precedent to jury trial.
	Utah, . . .	\$5.
	Washington, . . .	\$12.
	West Virginia, . . .	\$6.
21 States which have no jury fee,	Alabama, . . .	
	Arkansas, . . .	
	Delaware, . . .	
	Florida, . . .	
	Maine, . . .	
	Maryland, . . .	
	Massachusetts, . . .	
	New Hampshire, . . .	
	New York, . . .	
	North Carolina, . . .	
	North Dakota, . . .	
	Ohio, . . .	
	Pennsylvania, . . .	
	Rhode Island, . . .	
	South Carolina, . . .	
	South Dakota, . . .	
	Tennessee, . . .	
	Vermont, . . .	
	Virginia, . . .	
	Wisconsin, . . .	
	Wyoming, . . .	

TABLE No. 26. — *Data from Probate Courts for Year ending Jan. 1, 1909.*

	Barnstable.	Berkshire.	Bristol.	Dukes.	Essex.	Franklin.	Hampden.	Hampshire.	Middlesex.	Nantucket.	Norfolk.	Plymouth.	Suffolk.	Worcester.	Totals.
Number judges,	1	1	1	1	2	1	1	1	2	1	1	1	2	2	18
Salary of each judge,	\$1,400	\$2,500	\$4,200	\$900	\$4,000 4,000	\$1,500	\$3,400	\$1,700	\$5,000 5,000	\$900	\$4,000	\$2,600	\$6,000 6,000	\$4,500 3,000	\$60,800
Salary of register,	\$1,300	\$1,800	\$3,500	\$800	\$3,500	\$1,500	\$2,800	\$1,600	\$4,000	\$800	\$2,500	\$2,100	\$5,000	\$3,500	\$34,700
Number assistant registers,	1	1	1	—	1	1	1	1	3	—	1	—	2	1	14
Salary of each assistant register,	\$550	\$900	\$1,750	—	\$2,300	\$600	\$1,400	\$700	\$2,700 2,300 1,500	—	\$1,250	—	\$2,800 2,500	\$1,000	\$22,250
Number regular days sitting each year,	12	23	32	8	145	24	23	25	— ¹	12	44	22	49	96	515
Number additional days court sat,	52	— ²	— ²	22	— ²	— ²	32	30	— ²	2	— ²	27	— ²	77	— ²
Number new cases entered on docket,	317	577	1,443	52	2,475	317	949	375	3,473	38	1,131	873	3,873	2,172	18,065
Number wills allowed,	85	202	370	15	715	105	299	123	972	19	351	240	910	559	4,965
Number wills disallowed,	1	—	2	—	1	2	3	—	5	—	—	—	6	2	22
Number all administrations granted,	156	212	706	26	1,019	140	451	170	1,831	13	563	431	1,923	1,012	8,553
Number trusteeships decreed,	20	13	63	4	146	8	42	10	175	4	118	26	310	123	1,062
Number all guardianships granted,	35	80	157	8	304	46	130	54	457	4	154	104	638	285	2,456
Number conservatorships granted,	13	17	25	1	39	9	10	8	46	—	15	16	52	55	306
Number adoptions granted,	3	10	45	1	47	4	24	12	105	1	20	17	141	43	478
Number changes of name granted,	6	1	7	1	26	3	5	—	14	—	27	14	69	59	232
Number licenses to sell real estate,	32	121	191	9	320	35	96	66	413	2	154	140	373	370	2,322
Number petitions for separate support,	4	10	64	1	111	10	19	4	93	1	19	15	215	54	625
Number accounts passed on by the court,	85	264	343	20	507	183	414	141	1,366	16	543	281	1,855	840	6,558

¹ Sits every day except Sundays and holidays.² The register reports the judge sits every day in the year, except Sundays and holidays and during the month of July or August.

TABLE No. 28. — Civil Cases entered, settled, tried, nonsuited, defaulted and appealed in Police, District and Municipal Courts of Suffolk County, during Year ending June 30, 1909.

Court.	No. entered.	No. settled.	No. tried.	No. Findings for Plaintiff.	No. Findings for Plaintiff appealed.	No. Findings for Defendant.	No. Findings for Defendant appealed.	No. Nonsuits.	No. Nonsuits appealed.	No. Defaults.	No. Defaults appealed.
Municipal: —											
Brighton district, .	56	3	14	6	5	8	—	1	—	29	—
Charlestown district, .	73	1	14	10	4	4	2	3	—	41	3
Dorchester district, .	148	11	27	17	8	10	5	—	—	86	3
Roxbury district, .	299	10	136	77	11	59	13	—	—	36	—
South Boston district, .	134	10	47	36	18	11	5	—	—	49	1
West Roxbury district, .	54	5	7	6	4	1	1	1	—	19	—
Police Court of Chelsea,	241	30	50	29	12	21	9	2	1	93	—
District Court of East Boston,	190	8	39	25	12	14	2	—	—	75	—
Totals, .	1,195	78	334	206	74	128	37	7	1	428	7
Municipal Court of Boston,	14,235	2,487	2,229	1,399	497	830	337	196	52	6,383	450
Grand totals, .	15,430	2,565	2,563	1,605	571	958	374	203	53	6,811	457

APPENDIX.

LEGISLATION RECOMMENDED.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Ten.

AN ACT

To secure a More Speedy Administration of Justice in Civil
Actions.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the same,
as follows:*

THE SUPREME JUDICIAL COURT.

1 SECTION 1. Section fifteen of chapter one hundred
2 and fifty-six of the Revised Laws is hereby amended by
3 striking out said section and inserting in place thereof
4 the following: — *Section 15.* For hearing questions of
5 law arising in any county of the commonwealth, the full
6 court shall sit annually at Boston on the first Wednesday
7 of January, and may be adjourned from time to time, as
8 shall be most conducive to the dispatch of business and
9 to the interests of the public.

1 SECTION 2. Section seventeen of said chapter is
2 hereby amended by striking out the words “sitting in
3 any county or for the commonwealth”, in the first and
4 second lines, — and by striking out all after the word
5 “county”, in the fourth line, — so as to read as follows:
6 — *Section 17.* The full court shall have jurisdiction

7 of all questions of law and of all cases and matters at
8 law or in equity civil or criminal, which arise in any
9 county.

THE SUPERIOR COURT.

1 SECTION 3. Section two of chapter one hundred and
2 fifty-seven of the Revised Laws is hereby amended by
3 striking out the word "may", in the first line, and in-
4 serting in place thereof the word: — shall, — by striking
5 out the words "or more", in the first line, and by strik-
6 ing out all after the word "court", in the third line,
7 and inserting in place thereof the following: — The chief
8 justice shall from time to time make such assignments
9 for the attendance of a justice at the several times and
10 places appointed for holding the court as shall be most
11 convenient and as will insure the prompt performance
12 of its duties, — so as to read as follows: — *Section 2.*
13 The court shall be held by one of the justices, and when
14 so held shall have and exercise all the power and juris-
15 diction committed to said court. The chief justice shall
16 from time to time make such assignments for the attend-
17 ance of a justice at the several times and places appointed
18 for holding the court as will be most convenient and as
19 will insure the prompt performance of its duties.

1 SECTION 4. Section three of said chapter is hereby
2 amended by striking out the words "of libels for divorce
3 or for affirming or annulling marriage", in the third
4 and fourth lines, and by striking out the words "and
5 other real actions", in the fifth line, — so as to read as
6 follows: — *Section 3.* The court shall have exclusive
7 original jurisdiction of actions of tort except those of
8 which other courts or trial justices have concurrent orig-
9 inal jurisdiction, of writs of entry for the foreclosure of
10 mortgages, of complaints for flowing lands and of claims

11 against the commonwealth, and original jurisdiction of
12 all civil actions except those of which other courts or
13 trial justices have exclusive original jurisdiction.

1 SECTION 5. Section twenty-five of said chapter is
2 hereby amended by inserting after the word "July",
3 in the first line, the word: — and, — by striking out the
4 words "and September", in the first and second lines,
5 — by striking out the words "which have been advanced
6 for speedy trial according to law, of causes", in
7 the third and fourth lines, — by striking out the words
8 "originally commenced in the superior court in which
9 the amount demanded or property claimed does not ex-
10 ceed in amount or value two thousand dollars", in the
11 fifth, sixth, seventh and eighth lines, — by inserting
12 after the word "contract", in the fifth line, the words:
13 — of actions alleged in the writ to be of contract or tort,
14 — and by striking out the words, "and, upon the appli-
15 cation of either party, of actions in which a new trial
16 by jury has been granted, or an auditor's report has been
17 filed", in the ninth, tenth and eleventh lines, — so as to
18 read as follows: — *Section 25.* The court shall except
19 in July and August hold a separate and continuous ses-
20 sion so far as is practicable, in the county of Suffolk for
21 the speedy trial of causes which have been entered in
22 said court on appeal, of actions of contract, of actions
23 alleged in the writ to be of contract or tort, of petitions
24 to enforce liens under the provisions of chapter one hun-
25 dred and ninety-seven, and of all other cases in which,
26 in the opinion of a justice of said court, substantial
27 justice and relief require a speedy trial. A trial list of
28 such cases shall be made every month.

1 SECTION 6. Section nine of chapter one hundred and

2 fifty-eight of the Revised Laws is hereby amended by
3 inserting after the word "them", in the second line, the
4 words:—except as otherwise provided,—so as to read
5 as follows:—*Section 9.* The justices of said courts, re-
6 spectively, or a majority of them, except as otherwise
7 provided, shall, from time to time, make such arrange-
8 ments for the attendance of a justice at the several times
9 and places appointed for holding the courts as will be
10 most convenient and as will insure the prompt perform-
11 ance of their duties.

POLICE, DISTRICT AND MUNICIPAL COURTS AND TRIAL JUS-
TICES.

1 SECTION 7. Section eighteen of chapter one hundred
2 and sixty of the Revised Laws is hereby amended by
3 striking out the words "of actions of contract, tort or
4 replevin, in which the debt or damages demanded or the
5 value of the property alleged to be detained does not
6 exceed one hundred dollars; of actions of replevin for
7 beasts distrained or impounded in order to recover a
8 penalty or forfeiture supposed to have been incurred by
9 their going at large, or to obtain satisfaction for damages
10 alleged to have been done by them; and", in the second,
11 third, fourth, fifth, sixth, seventh and eighth lines,—so
12 as to read as follows:—*Section 18.* Police, district and
13 municipal courts shall have original jurisdiction, exclu-
14 sive of the superior court of summary process under the
15 provisions of chapter one hundred and eighty-one.

1 SECTION 8. Section nineteen of said chapter is hereby
2 amended by striking out the words "except the municipal
3 court of the city of Boston", in the first and second lines,
4 —and by striking out the words "is more than one
5 hundred and", in the fifth line,—so as to read as fol-

6 lows:— *Section 19.* Police, district and municipal
7 courts shall have original and concurrent jurisdiction
8 with the superior court of actions of contract, tort or
9 replevin in which the debt or damages demanded or the
10 value of the property alleged to be detained does not ex-
11 ceed one thousand dollars; and of petitions to enforce
12 liens under the provisions of chapter one hundred and
13 ninety-seven, if the amount of the claim does not exceed
14 one thousand dollars.

1 SECTION 9. Section fifty-nine of said chapter is hereby
2 amended by striking out the words “ exceeds one hundred
3 and ”, in the fifth line, — by striking out the word
4 “ two ”, in the fifth line, and inserting in place thereof
5 the word:— three, — and by striking out the word
6 “ two ”, in the eleventh line, and inserting in place
7 thereof the word:— three, — so as to read as follows:
8 — *Section 59.* In addition to the jurisdiction otherwise
9 conferred, said court shall have original and concurrent
10 jurisdiction with the superior court of actions of con-
11 tract, tort or replevin in which the debt or damages
12 demanded or the value of the property alleged to be de-
13 tained does not exceed three thousand dollars, if one or
14 more of the defendants, or, in actions by the trustee
15 process, if one or more of the persons named in the writ
16 as trustees, live or have their usual place of business in
17 the county of Suffolk, and of petitions to enforce liens
18 under the provisions of chapter one hundred and ninety-
19 seven, if the amount of the claim does not exceed three
20 thousand dollars.

1 SECTION 10. Section eleven of chapter one hundred and
2 sixty-one of the Revised Laws is hereby amended by strik-
3 ing out the words “ of actions of contract, tort or replevin

4 in which the debt or damages demanded or value of the
5 property alleged to be detained does not exceed one hun-
6 dred dollars; of actions of replevin for beasts distrained
7 or impounded in order to recover a penalty or forfeiture
8 supposed to have been incurred by their going at large,
9 or to obtain satisfaction for damages alleged to have been
10 done by them; and ", in the fourth, fifth, sixth, seventh,
11 eight, ninth and tenth lines, — so as to read as follows:
12 — *Section 11.* Trial justices may hold courts within the
13 counties for which they are appointed, and shall, subject
14 to the provisions of section twenty of chapter one hun-
15 dred and sixty, have original jurisdiction, exclusive of
16 the superior court, of summary process under the provi-
17 sions of chapter one hundred and eighty-one.

1 SECTION 11. Section twelve of said chapter is hereby
2 amended by striking out the words "is more than one
3 hundred and ", in the fifth line, — so as to read as fol-
4 lows: — *Section 12.* They shall, subject to the provisions
5 of section twenty of chapter one hundred and sixty, have
6 original and concurrent jurisdiction with the superior
7 court of actions of contract, tort or replevin in which the
8 debt or damages demanded or value of property alleged
9 to be detained does not exceed three hundred dollars.

1 SECTION 12. If the plaintiff elects to bring in a police,
2 district or municipal court, or before a trial justice, any
3 action which might have been begun in the superior court,
4 he shall be deemed to have waived a trial by jury and
5 an appeal.

1 SECTION 13. No party other than the plaintiff, in an
2 action in a police, district or municipal court or before a

3 trial justice, except in an action of summary process for
4 the possession of land under the provisions of chapter
5 one hundred and eighty-one of the Revised Laws, shall
6 be entitled to appeal from the decision of such court or
7 justice unless he shall have filed within the time allowed
8 for entering an appearance a bond to the plaintiff with
9 two sureties to be approved by said court or the clerk
10 thereof or by said trial justice, as the case may be, in the
11 sum of two hundred dollars, the condition of which shall
12 be that he shall pay to the plaintiff the final judgment
13 within thirty days from the entry thereof, and further
14 unless at the time of the entry of his appeal he shall pay
15 into the superior court the plaintiff's costs which have
16 accrued. If the final judgment on the appeal is in favor
17 of the defendant, the amount of costs so paid shall be re-
18 turned to him, otherwise it shall be paid to the appellee.
19 In case, however, a party other than the plaintiff shall
20 file such bond, the plaintiff shall be entitled to appeal
21 from the decision of the court, provided he shall within
22 the time limited for such appeal file a similar bond and
23 shall pay into the superior court the costs of such other
24 party which shall have accrued, which costs shall be re-
25 turned to him if the final judgment is in his favor. At
26 the trial in the superior court the finding of the lower
27 court, together with such memorandum of decision as
28 shall have been made by the judge, shall be read in evi-
29 dence and shall be entitled to the same weight as an
30 auditor's report.

1 SECTION 14. Any party to an action brought in a
2 police, district or municipal court or before a trial justice
3 may, instead of filing the bond required by the provisions
4 of this act, deposit with the clerk, or with the justice if
5 there is no clerk, or with the trial justice, within the time

6 required by this act for filing a bond, the sum of two
7 hundred dollars, and the provisions of section one hun-
8 dred of chapter one hundred and seventy-three of the
9 Revised Laws shall apply to such deposit.

1 SECTION 15. The justice before whom a case is heard
2 may, in his discretion, if he is of opinion that any ques-
3 tion of law arising therein requires further judicial ex-
4 amination, report such question for the determination
5 of the superior court, and hearing thereon shall be had
6 before a single justice of the superior court. Duplicate
7 copies and papers relating thereto shall, at the expense
8 of the plaintiff, unless the court shall order the expense
9 to be borne by some other party, be prepared by the
10 clerk, who may require the estimated expense thereof to
11 be paid in advance at the rate of twenty cents a page,
12 and thereupon said report shall be transmitted to and
13 entered in the superior court at the next return day.
14 The entry thereof shall not transfer the case, but only
15 the question to be determined. The expense of such
16 copies and transmission, and the entry fee in the su-
17 perior court, shall be taxed in the bill of costs of the
18 prevailing party, if he has paid it. If the party having
19 the duty so to do fails to enter the report in the superior
20 court or to take the necessary measures, by ordering
21 proper copies to be prepared or otherwise, for hearing on
22 the report, the court reporting the case may, upon appli-
23 cation of the adverse party and after notice to all persons
24 interested, order that the report be discharged and that
25 the judgment finding or order be affirmed. An appeal
26 may lie from the decision of the superior court on such
27 question to the supreme judicial court.

THE LAND COURT.

1 SECTION 16. All causes in the land court shall be
2 tried by the court unless either party within the time
3 allowed for entering appearance claims a trial by jury.
4 If trial by jury is claimed, issues therefor shall upon
5 motion of either party be framed in the land court, and
6 within thirty days thereafter copies thereof, and of all
7 other material papers in the case, certified by the re-
8 corder, shall be entered, on payment of a jury fee of ten
9 dollars by the party claiming a trial by jury, in the
10 superior court for the county in which the land lies, for
11 a jury trial thereon. Failure to so enter such copies of
12 the issues shall constitute a waiver of the claim to a trial
13 by jury. Upon the motion of either party in the su-
14 perior court the cause shall be advanced for speedy hear-
15 ing, but no matters shall be tried in the superior court
16 except those specified in the issues.

PROBATE COURTS.

1 SECTION 17. Except as hereinafter provided for trial
2 of issues by jury, all findings, orders and decrees of the
3 probate courts upon all questions of fact shall be final, and
4 no appeal shall lie therefrom. But an appeal to the su-
5 preme judicial court may be taken from a decree of the
6 probate courts for the purpose solely of determining any
7 question of law which the probate courts shall certify arose
8 in the trial, or upon an agreement as to the facts or upon
9 the facts which the probate courts shall certify are undis-
10 puted.

1 SECTION 18. If, in the matter of the probating of a
2 will, any person interested desires a trial by jury upon
3 the question or questions of fact, such person may file his

4 request for a jury in the probate court, on or before the
5 return day of the citation issued on the petition for the
6 proof and allowance of such will, and in its discretion the
7 probate court may frame one or more issues of fact to be
8 tried by a jury, and order the same to be so tried in the
9 superior court in the county, or, at the request of all
10 parties, in any other county in which said superior court
11 shall sit. Upon motion made by any party in interest,
12 the superior court may advance such issue or issues for
13 speedy trial. The verdict of the jury upon such issue
14 or issues of fact shall be forthwith transmitted to the pro-
15 bate court for record, and thereafter all proceedings shall
16 be had in the probate court, except and unless the probate
17 court shall order that further issue or issues of fact shall
18 be tried by a jury, in which case all proceedings in the
19 superior court and the probate court shall be had as is
20 hereinabove provided.

1 SECTION 19. Section eight of chapter one hundred and
2 forty-two of the Revised Laws is hereby amended by
3 striking out the words "an appeal", in the first line,
4 and inserting in place thereof the words:— a trial by
5 a jury, — and by striking out all after the word "afore-
6 said", in the fourth line, to the word "may", in the
7 sixth line, — so as to read as follows:— *Section 8.* The
8 probate court may, except while a trial by a jury under
9 the provisions of section eleven is pending, upon the ap-
10 plication of the executor or administrator, examine upon
11 oath any person whose claim has been allowed as afore-
12 said, may summon any person to give evidence relative
13 to such claim, and, upon notice, alter or expunge a claim
14 which it finds is founded wholly or partially in fraud,
15 illegality or mistake.

1 SECTION 20. Section nine of said chapter is hereby
2 amended by striking out the words "an appeal", in the
3 eighth line, and inserting in place thereof the words:—
4 a demand for a jury, — and by striking out all after the
5 word "after", in the ninth line, and inserting in place
6 thereof the words:—such demand, — so as to read as
7 follows:—*Section 9.* Six months after the appoint-
8 ment of the commissioners or after the order of the court
9 under the provisions of section five shall be allowed for
10 the creditors to present and prove their claims; and if
11 a new commissioner is appointed under the provisions
12 of section six, the time shall be extended until the expira-
13 tion of six months from his appointment. The court
14 may allow further time, not exceeding eighteen months
15 from the original appointment or order; and, upon a
16 demand for a jury as hereinafter provided, it may extend
17 the time to a date not more than one month after such
18 demand.

1 SECTION 21. Section eleven of said chapter is hereby
2 amended by striking out all after the word "may", in
3 the third line, and inserting in place thereof the words:
4 —demand a trial by jury to determine the same; and
5 thereupon it shall be tried and determined in like man-
6 ner as if an action had been brought therefor at common
7 law by the supposed creditor against the executor or
8 administrator, — so as to read as follows:—*Section 11.*
9 A person whose claim is disallowed in whole or in part,
10 and an executor, administrator, heir, legatee, devisee or
11 creditor who is dissatisfied with the allowance of a
12 claim, may demand a trial by jury to determine the
13 same, and thereupon it shall be tried and determined
14 in like manner as if an action had been brought therefor

15 at common law by the supposed creditor against the
16 executor or administrator.

1 SECTION 22. Section twelve of said chapter is hereby
2 amended by striking out the word "appeal", in the first
3 and fifth lines, and inserting in place thereof
4 the word:—demand,—by striking out the word
5 "claimed", in the first line, and inserting in place
6 thereof the word:—made,—and by striking out all
7 after the word "days", in the sixth line, and inserting
8 in place thereof the words:—The claim, together with
9 the statement hereinafter provided for, shall be trans-
10 mitted forthwith to, and tried by, a jury in the superior
11 court for the county in which the matter is pending,—
12 so as to read as follows:—*Section 12.* Such demand
13 shall be made and notice thereof given at the registry of
14 probate within thirty days after the return of the com-
15 missioners; or, when the court receives and examines the
16 claims, within thirty days after the allowance or rejec-
17 tion of the claim. If the demand is by an executor or
18 administrator, he shall give notice thereof to the creditor
19 within said thirty days. The claim, together with the
20 statement hereinafter provided for, shall be transmitted
21 forthwith to, and tried by, a jury in the superior court
22 for the county in which the matter is pending.

1 SECTION 23. Section thirteen of said chapter is hereby
2 amended by striking out the first six words in the first
3 line, and inserting in place thereof the words:—Upon
4 making the demand,—by striking out the word "appel-
5 late", in the eighth line, and inserting in place thereof
6 the word:—superior,—and by inserting after the word
7 "claimant", in the ninth line, the words:—The clerk
8 of courts of the county to which such claim shall have

9 been so transmitted shall forthwith certify the verdict
10 of the jury to the probate court for judgment, after all
11 exceptions and motions for a new trial have been finally
12 disposed of, — so as to read as follows: — *Section 13.*
13 Upon making the demand, the supposed creditor shall
14 file a statement in writing of his claim, setting forth
15 briefly and distinctly all the material facts which would
16 be necessary in a declaration for the same cause of
17 action; and like proceedings shall thereupon be had in
18 the pleadings, trial, and determination of the cause as in
19 an action of law; but no execution shall be awarded
20 against the executor or administrator for a debt found
21 due to the claimant. The superior court shall have the
22 same power as the probate court or the commissioners
23 to examine the claimant. The clerk of courts of the
24 county to which such claim shall have been so transmitted
25 shall forthwith certify the verdict of the jury to the
26 probate court for judgment, after all exceptions and
27 notices for a new trial have been finally disposed of. The
28 final judgment shall be conclusive and the list of debts
29 allowed shall be altered, if necessary, to conform thereto.

1 SECTION 24. Section fourteen of said chapter is hereby
2 amended by striking out the words “claiming such
3 appeal”, in the first line, and inserting in place thereof
4 the words: — a demand for a trial by jury, — by strik-
5 ing out the words “at law”, in the second line, and in-
6 serting in place thereof the words: — by jury, — by
7 inserting after the word “determination”, in the second
8 line, the words: — of the probate court, or to the deter-
9 mination, — and by striking out the words “and there-
10 upon the appeal shall not be entered”, in lines three and
11 four, — so as to read as follows: — *Section 14.* After a
12 demand for a trial by jury, the parties may waive a trial

13 by jury and submit the claim to the determination of the
14 probate court, or to the determination of arbitrators
15 agreed on by the parties and appointed by the probate
16 court. The award of such arbitrators, if accepted by the
17 court, shall be as conclusive as a judgment in a court
18 of common law.

1 SECTION 25. Section fifteen of said chapter is hereby
2 amended by striking out the words "upon such appeal",
3 in the first line, and inserting in place thereof the words:
4 — after such demand for a jury, — so as to read as fol-
5 lows: — *Section 15.* The party who prevails after such
6 demand for a jury shall be entitled to costs, which, if
7 recovered against the executor or administrator, may be
8 allowed to him in his administration account.

1 SECTION 26. Section sixteen of said chapter is hereby
2 amended by striking out the word "appeal", in the third
3 line, and inserting in place thereof the words: — demand
4 for a trial by a jury, — and by striking out the last five
5 words in the seventh line, and inserting in place thereof
6 the words: — have a trial by a jury as aforesaid, — so
7 as to read as follows: — *Section 16.* If a person whose
8 claim has been disallowed by the commissioners or by the
9 probate court omits, for cause other than his own neglect,
10 to claim or prosecute his demand for a trial by a jury
11 as before provided, the supreme judicial court in any
12 county may, upon his petition filed within two years after
13 the return of the commissioners and within four years
14 after the date of the administration bond, allow him upon
15 terms to have a trial by a jury as aforesaid.

1 SECTION 27. Section seventeen of said chapter is hereby
2 amended by striking out the first five words and inserting
3 in place thereof the words: — such demand for a trial

4 by a jury, — so as to read as follows: — *Section 17.*
5 Such demand for a trial by a jury and the judgment
6 thereon shall not affect any distribution ordered before
7 notice of the petition or of the intention to present the
8 same has been given in writing at the registry of probate
9 or to the executor or administrator; but any debt thus
10 proved and allowed shall be paid only out of such assets
11 as remain in or come to the hands of the executor or ad-
12 ministrator after payment of the amounts payable on
13 such prior decree of distribution.

1 SECTION 28. Section eighteen of said chapter is hereby
2 amended by striking out the words “claiming appeals
3 from”, in the second line, and inserting in place thereof
4 the words: — demanding a trial by a jury upon, — by
5 striking out the words “an appeal”, in the sixth line,
6 and inserting in place thereof the words: — demand for
7 a jury, — and by striking out the words “the determina-
8 tion of the appeal”, in the seventh line, and inserting
9 in place thereof the words: — final determination of the
10 claim, — so as to read as follows: — *Section 18.* After
11 the expiration of the time allowed by the provisions of
12 section twelve for demanding a trial by a jury upon the
13 allowance or disallowance of a claim, the probate court
14 shall make a decree for the distribution of the estate
15 among the creditors according to the provisions of this
16 chapter. If, before making the decree, the court has
17 notice of a demand for a jury then claimed or pending,
18 the decree may be suspended until the final determination
19 of the claim, or a distribution may be ordered among
20 the creditors whose debts are allowed, leaving in the
21 hands of the executor or administrator an amount suffi-
22 cient to pay to the claimant whose demand is disputed
23 a proportion equal to that of the other creditors.

1 SECTION 29. Section nineteen of said chapter is hereby
2 amended by striking out the words "claiming appeals",
3 in the second line, and inserting in place thereof the
4 words:—demanding a trial by a jury,—so as to read
5 as follows:—*Section 19.* The court may, at any time
6 before the expiration of the time allowed for demanding
7 a trial by a jury, in its discretion order dividends to be
8 paid to creditors whose claims have been proved and
9 allowed, if there is left in the hands of the executor or
10 administrator an amount sufficient to pay upon claims
11 that may probably be proved afterward a proportion
12 equal to what is so paid to such creditors. Such amount
13 shall remain unappropriated in the hands of the executor
14 or administrator until the final dividend is declared, or
15 until a distribution is ordered.

1 SECTION 30. Section thirty of said chapter is hereby
2 amended by striking out the words "an appeal from",
3 in the eleventh line, and inserting in place thereof the
4 words:—a demand for a trial by a jury upon,—so
5 as to read as follows:—*Section 30.* Except as provided
6 in the following section, no action shall be maintained
7 against an executor or administrator after an estate has
8 been represented insolvent, unless for a claim entitled
9 to a preference which would not be affected by the insol-
10 vency of the estate or unless the assets prove more than
11 sufficient to pay all the debts allowed by the commis-
12 sioners. If the estate is represented insolvent while an
13 action is pending for a claim which is not entitled to such
14 preference, the action may be discontinued without costs;
15 or, if it is disputed, the action may be tried and deter-
16 mined and judgment rendered thereon in the same man-
17 ner and with the same effect as is provided in the case
18 of a demand for a trial by a jury upon the allowance or

19 disallowance of the claim of a creditor; or the action may
20 be continued without costs until it appears whether the
21 estate is insolvent, and, if it is not insolvent, the plaintiff
22 may prosecute the action as if no such representation had
23 been made.

1 SECTION 31. Section thirty-two of said chapter is
2 hereby amended by striking out the words "on appeal",
3 in the ninth line, — so as to read as follows: — *Section 32.*
4 If judgment has been rendered against the estate of a
5 deceased person which has been represented insolvent,
6 and a certified copy from the probate court, showing such
7 representation, has been filed in the clerk's office of the
8 court in which the judgment was rendered, no execution
9 shall be issued on such judgment; but such judgment may
10 be presented for allowance in the same manner as other
11 claims of creditors, and otherwise the proceedings relative
12 to such judgment shall be the same as those relative to
13 judgments rendered under the provisions of section thir-
14 teen.

1 SECTION 32. The probate court for each county shall
2 have exclusive original jurisdiction of all libels for di-
3 vorce, and petitions for annulling or affirming marriages
4 the validity of which is denied or doubted by either
5 party; and shall have all powers as to alimony, the
6 custody of children, or otherwise in such matters, which
7 the superior court has heretofore had and exercised; but
8 the provisions of this section shall not affect any case
9 pending in the superior court at the time when this act
10 takes effect.

1 SECTION 33. Findings of fact by the probate court in
2 libels for divorce and petitions for annulling or affirming
3 marriages, and in matters arising under the provisions

4 of sections thirty-three and thirty-seven of chapter one
5 hundred and fifty-three of the Revised Laws, shall be
6 final and conclusive. The provisions of section ninety-
7 six of chapter one hundred and seventy-three of the Re-
8 vised Laws, as amended by section two of chapter three
9 hundred and forty-two of the acts of the year nineteen
10 hundred and six, section one hundred and five of said
11 chapter, section one hundred and six of said chapter as
12 amended by section three of chapter three hundred and
13 forty-two of the acts of the year nineteen hundred and
14 six, sections one hundred and seven, one hundred
15 and eight and one hundred and nine of said chapter, sec-
16 tion one hundred and ten as amended by chapter five
17 hundred and sixteen of the acts of the year nineteen hun-
18 dred and eight, sections one hundred and eleven, one
19 hundred and thirteen, one hundred and fourteen and one
20 hundred and fifteen of said chapter, section one hundred
21 and sixteen, as amended by section one of chapter five
22 hundred and forty-six of the acts of the year nineteen
23 hundred and seven, section one hundred and seventeen
24 of said chapter, and chapter one hundred and seventy-
25 seven of the acts of the year nineteen hundred and eight,
26 shall, so far as appropriate, apply to all such libels, pro-
27 ceedings and matters.

1 SECTION 34. Section fifteen of chapter one hundred
2 and fifty-two of the Revised Laws is hereby amended
3 by striking out the words "sitting in any county", in
4 the first line, and inserting in place thereof the words:
5 — in which the libel is pending, — so as to read as
6 follows: — *Section 15.* The court in which the libel is
7 pending may, upon the petition of the wife, prohibit the
8 husband from imposing any restraint upon her personal
9 liberty during the pendency of the libel.

1 SECTION 35. Section seventeen of said chapter is
2 hereby amended by striking out the words "of the
3 probate court", in the eighth line, — and by striking out
4 the words "and may suspend the right of said court to
5 act under the provisions of said section", in the ninth,
6 tenth and eleventh lines, — so as to read as follows: —
7 *Section 17.* The court may, without entering a decree
8 of divorce, cause the libel to be continued upon the
9 docket from time to time, and during such continuance
10 may make orders and decrees relative to a temporary
11 separation of the parties, the separate maintenance of
12 the wife and the custody and support of minor children.
13 Such orders and decrees may be changed or annulled as
14 the court may determine, and shall, while they are in
15 force, supersede any order or decree under the provisions
16 of section thirty-three of chapter one hundred and fifty-
17 three.

1 SECTION 36. Section twenty-six of said chapter is
2 hereby amended by striking out the word "superior",
3 in the third line, and inserting in place thereof the word:
4 — probate, — so as to read as follows: — *Section 26.*
5 If, after a divorce has been decreed in another state or
6 country, minor children of the marriage are inhabitants
7 of this commonwealth, the probate court, upon the peti-
8 tion of either parent or of a next friend in behalf of the
9 children, after notice to both parents, may make like
10 decrees relative to their care, custody, education and main-
11 tenance as if the divorce had been decreed in this com-
12 monwealth.

1 SECTION 37. Section thirty-three of said chapter is
2 hereby amended by striking out the words "and also
3 after a decree for the appointment of trustees to receive

4 and hold property in trust for the use of the wife or
5 children as before provided", in the second, third and
6 fourth lines, — and by striking out the words "and also
7 relative to the appropriation and payment of the principal
8 and income of the property so held in trust", in the
9 seventh and eighth lines, — so as to read as follows: —
10 *Section 33.* After a decree for alimony or an annual
11 allowance for the wife or children, the court may from
12 time to time upon the petition of either party, revise and
13 alter its decree relative to the amount of such alimony
14 or annual allowance and the payment thereof, and may
15 make any decree relative to such matters which it might
16 have made in the original suit.

1 SECTION 38. A citation issued by the probate court
2 upon a libel for divorce or for annulling or affirming
3 marriage, shall be returnable, at the election of the
4 libellant, at any return day which occurs after the ex-
5 piration of fourteen days from, and within three months
6 after, the date of said citation; but the court may make
7 it returnable at other times.

1 SECTION 39. The fee for the entry of a libel for di-
2 vorce or for annulling or affirming marriage, including
3 the issuing of any order of notice or of any interlocutory
4 or final order, rule, decree or process thereon, shall be
5 five dollars, which shall be paid by the libellant to the
6 register of probate, and by him shall be accounted for and
7 paid over in the manner required by section sixteen of
8 chapter one hundred and sixty-four of the Revised Laws.

1 SECTION 40. Registers of probate shall hereafter give
2 such notices to the district attorneys and make such re-
3 turns to the secretary of the commonwealth as are now
4 required of clerks of courts under the provisions of sec-

5 tions forty-one and forty-two of chapter one hundred and
6 fifty-two of the Revised Laws.

1 SECTION 41. Registers of probate and insolvency and
2 assistant registers of probate and insolvency in the several
3 counties shall, by virtue of their offices, be clerks and
4 assistant clerks, respectively, of the probate courts and
5 courts of insolvency of their counties.

1 SECTION 42. Until rules for regulating practice in di-
2 vorce are adopted by the judges of the probate courts,
3 under the authority of section twenty-nine of chapter one
4 hundred and sixty-two of the Revised Laws, the rules of
5 the superior court shall so far as applicable apply to such
6 proceedings.

ATTACHMENTS.

1 SECTION 43. Section thirty-eight of chapter one hun-
2 dred and sixty-seven of the Revised Laws is hereby
3 amended by adding at the end thereof the following:—
4 And no attachment of real or personal property shall be
5 made on mesne process, unless the declaration in the suit
6 is inserted in the writ before the attachment is made, and
7 unless there is annexed to the writ before service an affi-
8 davit of the plaintiff or some person in his behalf, made
9 before an officer authorized to administer oaths, verifying
10 the cause of action, in form substantially as follows:—

11 ss. (Date.)

12 I, , the plaintiff (on behalf of
13 the plaintiff) in the foregoing writ, hereby solemnly swear (or
14 affirm) that I have (said plaintiff has) a good cause of action
15 as set out in said writ and declaration, and reasonable expectation
16 of recovering judgment for the amount claimed in the declaration
17 therein.

18 Subscribed and sworn to before me,

41 ss. (Date.)
42 I, _____, the plaintiff (on behalf of
43 the plaintiff) in the foregoing writ, hereby solemnly swear (or
44 affirm) that I have (said plaintiff has) a good cause of action as
45 set out in said writ and declaration, and reasonable expectation
46 of recovering judgment for the amount claimed in the declaration
47 therein.
48 Subscribed and sworn to before me.

49 (Official Character.)

PLEADING AND PRACTICE.

1 SECTION 44. Section nineteen of chapter one hundred
2 and fifty-nine of the Revised Laws is hereby amended

3 by striking out the word "thirty", in the third line, and
4 inserting in place thereof the word:—twenty,—so as
5 to read as follows:—*Section 19.* A party who is ag-
6 grieved by a final decree of a justice of the supreme judi-
7 cial court or a final decree of the superior court may,
8 within twenty days after the entry thereof, appeal there-
9 from. An appeal from a final decree of a justice of the
10 supreme judicial court shall be entered on the docket of
11 that court, and an appeal from a final decree of the
12 superior court shall forthwith be entered in the supreme
13 judicial court. The copies and papers in the cause shall
14 be prepared by the clerk of the court and transmitted to
15 the supreme judicial court and entered on the docket of
16 the full court. When such appeals have been entered as
17 aforesaid, all proceedings under such decree shall be
18 stayed, and the cause shall thereupon be pending before
19 the full court, which shall hear and determine the same,
20 and affirm, reverse or modify the decree appealed from.
21 Upon the reversal of a final decree, the court may remand
22 the cause to a justice of the supreme judicial court or
23 to the superior court, with such directions as are neces-
24 sary and proper further to proceed therein, or the court
25 may refer it to a master or take such other order relative
26 to future proceedings therein as equity and the just and
27 speedy determination of the case require.

1 SECTION 45. Section thirty of said chapter is hereby
2 amended by striking out the word "thirty", in the
3 second line, and inserting in place thereof the word:—
4 ten,—so as to read as follows:—*Section 30.* If the
5 defendant in a suit in equity in the superior court, or
6 a person in his behalf, within ten days after the day for
7 appearance, makes affidavit of his belief that the matter
8 involved in the suit equals four thousand dollars in value,

9 that his interest alone or with the interest of any other
10 defendant having a joint or common interest with him
11 equals said value, and that he has a substantial defence,
12 and of his intention to bring the cause to a hearing, the
13 case, with the papers therein shall, upon his request and
14 at his expense, be forthwith removed to the supreme
15 judicial court, where it shall proceed as if originally com-
16 menced therein. Before such removal, the superior court
17 may make such orders for the appointment of receivers,
18 and of injunction or prohibition, or for continuing the
19 same in force, as are necessary for the protection of the
20 rights of the parties until the case shall be heard by
21 the supreme judicial court; subject, however, to be modi-
22 fied or annulled by the order of that court upon motion
23 after the case has been removed.

1 SECTION 46. Section thirty-four of said chapter is
2 hereby amended by striking out the word "thirty", in
3 the second line, and inserting in place thereof the word:
4 — twenty, — and by adding at the end of said section the
5 words: — *provided, however*, that if the justice by whom
6 or by whose order the final decree was made is of
7 opinion that the appeal from such decree is groundless
8 and intended merely for delay, process for the execution
9 of the decree may be awarded notwithstanding the appeal,
10 — so as to read as follows: — *Section 34.* No process
11 for the execution of a final decree of either court shall
12 issue until the expiration of twenty days after the entry
13 thereof, unless all parties against whom such decree is
14 made waive an appeal by a writing filed with the clerk
15 or by causing an entry thereof to be made on the docket:
16 *provided, however*, that if the justice by whom or by
17 whose order the final decree was made is of opinion that
18 the appeal from such decree is groundless and intended

19 merely for delay, process for the execution of the decree
20 may be awarded notwithstanding the appeal.

1 SECTION 47. Section nine of chapter one hundred and
2 seventy-three of the Revised Laws is hereby amended by
3 adding after the word "person", in the second line, the
4 words:— or an attachment of real or personal property,
5 — so as to read as follows:— *Section 9.* In actions of
6 contract or tort, unless an arrest of the person or an
7 attachment of real or personal property is made or ex-
8 cept as provided in section thirty-nine of chapter one
9 hundred and sixty-seven, the writ need not contain a
10 declaration nor any description of the cause of action in
11 which it is intended to declare except the name of the
12 division thereof; but if in such actions in police, dis-
13 trict or municipal courts or before trial justices the
14 declaration is not inserted before the service of the writ,
15 the defendant shall, upon motion, be entitled as of right
16 to a continuance for at least seven days after the return
17 day.

1 SECTION 48. Section ten of said chapter is hereby
2 amended by striking out the word "an", in the sixth
3 line, and inserting in place thereof the word:— no,—
4 so as to read as follows:— *Section 10.* The declaration,
5 unless it has been inserted in the writ, may be filed in
6 the clerk's office, or in the office of the justice of a police
7 or district court which has no clerk, on or before the
8 return day of the writ, or it may be filed with a trial
9 justice at the time and place at which the writ is re-
10 turnable. If, in an action in which there has been no
11 attachment of property, the declaration and bill of par-
12 ticulars, when such bill is necessary, have not been in-
13 serted in the writ, a copy thereof shall be furnished to

14 the defendant or his attorney within three days after a
15 demand in writing therefor upon the plaintiff or his
16 attorney.

1 SECTION 49. Section thirty-five of said chapter is
2 hereby amended by inserting after the word "required",
3 in the sixth line, and before the word "to", in the
4 seventh line, the words:— in his pleadings, — so as to
5 read as follows:— *Section 35.* The allegations and de-
6 nials of each party shall be so construed by the court as
7 to secure as far as possible substantial precision and cer-
8 tainty and to discourage vagueness and loose generalities.
9 A substantive fact which is alleged with substantial pre-
10 cision and certainty and is not denied in clear and
11 precise terms, shall be held to be admitted. No party
12 shall be required in his pleadings to state evidence, or
13 to disclose the means by which he intends to prove his
14 case.

1 SECTION 50. Section forty of said chapter is hereby
2 amended by adding at the end thereof the words:— The
3 court in which an action is pending may at any time,
4 after notice and hearing, require either party to furnish
5 an indorser for costs or to give bond with sufficient surety
6 or sureties approved by the parties or the court for the
7 payment of costs, — so as to read as follows:— *Section*
8 *40.* If a plaintiff who is not an inhabitant of the com-
9 monwealth has, by accident, mistake or inadvertence,
10 failed to have his writ, bill or petition indorsed as re-
11 quired by the preceding section, the court may at any
12 stage of the case, upon terms, allow him to procure an
13 indorser with the same effect as if the writ, bill or peti-
14 tion had been indorsed before the entry thereof. The
15 court in which an action is pending may at any time,

16 after notice and hearing, require either party to furnish
17 an indorser for costs or to give bond with sufficient surety
18 or sureties approved by the parties or the court for the
19 payment of costs.

1 SECTION 51. Section forty-four of said chapter is
2 hereby amended by inserting after the word "indorser",
3 in the first line, the words: — or give bond, — and by
4 adding at the end of said section the words: — If a de-
5 fendant or party other than the plaintiff fails to procure
6 an indorser or to give bond according to the order of
7 the court, the court may make such order for continuance
8 or default as justice may require, — so as to read as fol-
9 lows: — *Section 44.* If a plaintiff fails to procure an
10 indorser or give bond according to the order of the court,
11 his action shall be dismissed and the defendant or other
12 party shall recover his costs. If a defendant or party
13 other than the plaintiff fails to procure an indorser or
14 to give bond according to the order of the court, the court
15 may make such order for continuance or default as
16 justice may require.

1 SECTION 52. Section fifty-two of said chapter is hereby
2 amended by striking out the word "shall", in the sev-
3 enth line, and inserting in place thereof the word: —
4 may, — so as to read as follows: — *Section 52.* The
5 supreme judicial court or the superior court may at any
6 time before final judgment, and upon terms, allow
7 amendments changing an action at law into a suit in
8 equity, or a suit in equity into an action at law, if it
9 is necessary to enable the plaintiff to sustain the action
10 or suit for the cause for which it was intended to be
11 brought. The court in which the amendment is allowed
12 may retain jurisdiction of the cause as amended.

1 SECTION 53. Section fifty-five of said chapter is
2 hereby amended by striking out said section and insert-
3 ing in place thereof the following: — *Section 55.* In any
4 action of contract in which the defendant has appeared,
5 any plaintiff, or if a corporation its treasurer, may
6 at any time before the case is in order for trial file
7 an affidavit verifying the cause of action and stating that
8 in his belief there is no defence thereto; and thereupon
9 the clerk shall issue an order requiring the defendant
10 to show cause in writing and under oath why judgment
11 should not be given for the plaintiff. The plaintiff shall
12 immediately give notice in writing to the defendant of
13 such order, and unless the defendant, within seven days
14 after such notice, or within such further time as the court
15 may allow, consents to a default and to judgment for
16 the amount demanded, if the claim is to recover a debt,
17 or liquidated demand, or unless by affidavit setting out
18 specifically and clearly the substantive facts upon which
19 he relies he discloses such facts as the court finds entitle
20 him to defend, the court shall, except as hereinafter pro-
21 vided, advance said action for speedy trial; but if, upon
22 a hearing under such order and notice, the court does
23 not so advance the action or order judgment, it may in
24 its discretion award the defendant reasonable costs. The
25 court shall require the defendant to disclose specifically
26 and clearly the substantive facts upon which he relies;
27 and in any trial any affidavit so filed, as herein provided,
28 by any party may be given in evidence against him. The
29 court shall, if substantive facts making out a good cause
30 of action for the plaintiff are admitted to be true, or
31 if the facts alleged by or on behalf of the defendant
32 do not in law constitute in the opinion of the court a
33 defence to the action, order judgment for the plaintiff
34 in such sum as is justly due. The defendant may within

.....

35 forty-eight hours after notice of such order claim an
36 exception thereto, and further proceedings may be had
37 as upon an exception claimed at a trial. If, in an action
38 appealed by the defendant from a police, district or
39 municipal court or trial justice, the court is satisfied,
40 upon an inspection of the declaration, that the plaintiff
41 seeks to recover solely for his personal labor, with or
42 without interest, the court shall upon motion advance
43 such action for speedy trial. In any action in which a
44 defendant has appeared and answered, such defendant,
45 or if a corporation its treasurer, may at any time before
46 the case is in order for trial file an affidavit stating that
47 in his belief there is no merit in the action; and there-
48 upon the clerk shall issue an order requiring the plaintiff
49 to show cause why he should not become non-suit. The
50 defendant shall immediately give notice in writing to
51 the plaintiff of such order, and unless within seven days
52 after such notice, or within such further time as the court
53 may allow, the plaintiff consents to a non-suit, or unless
54 by affidavit setting forth specifically and clearly the
55 substantive facts upon which he relies he discloses such
56 facts as the court finds entitle him, if true, to maintain
57 his action, the court shall enter a non-suit against him.
58 If the substantive facts alleged are admitted to be true,
59 but in the opinion of the court are not sufficient in law
60 to maintain the action, the court shall order judgment for
61 the defendant. The plaintiff may within forty-eight
62 hours after notice of such order claim an exception
63 thereto, and further proceedings may be had as upon an
64 exception claimed at a trial. If the action is ordered to
65 stand for trial, the plaintiff shall be entitled to his rea-
66 sonable costs; and at any trial of the action any affidavit
67 filed by either party, as herein provided, may be given
68 in evidence against him. Save as herein otherwise pro-

69 vided, the decision of the court upon such proceedings
70 shall be final.

1 SECTION 54. Section fifty-six of said chapter is hereby
2 amended by striking out the words "the supreme judicial
3 court and", in the second line, — and by inserting after
4 the word "jury", in the tenth line, the words: — and
5 pays into court therewith as a jury fee the sum of ten
6 dollars, — so as to read as follows: — *Section 56.* A
7 separate list of cases which are to be tried by a jury shall
8 be kept in the superior court, and no action shall be en-
9 tered thereon unless a different provision is elsewhere
10 expressly made, or unless a party, before issue joined or
11 within ten days after the time allowed for the filing of
12 the answer or plea, or within ten days after the answer
13 or plea has by consent of the plaintiff or by permission
14 of the court been filed, or within such time after the
15 parties are at issue as the court may by general or special
16 order direct, files a notice that he desires a trial by jury,
17 and pays into court therewith as a jury fee the sum of
18 ten dollars; but in a case in which damages are de-
19 manded, the court may of its own motion refer the assess-
20 ment thereof to a jury.

1 SECTION 55. Section sixty of said chapter is hereby
2 amended by striking out all after the word "inter-
3 rogated", in the third line, so as to read as follows: —
4 *Section 60.* Each interrogatory shall be answered sep-
5 arately and fully. The answers shall be in writing,
6 under oath, and shall be signed by the party interrogated.

1 SECTION 56. Section sixty-three of said chapter is
2 hereby amended by striking out all after the word "in-
3 terrogated", in the fifth line, so as to read as follows: —

4 *Section 63.* The party interrogated shall not be obliged
5 to answer a question or produce a document if it would
6 tend to criminate him, or to disclose his title to any
7 property the title whereof is not material to the trial
8 of the action in the course of which he is interrogated.

1 SECTION 57. Section seventy-seven of said chapter is
2 hereby amended by striking out said section, and insert-
3 ing in place thereof the following:—*Section 77.* If
4 parties to an action upon the trial list at a sitting of
5 the superior court file an agreement that such action
6 shall not be held for trial before a certain day in the
7 same or a successive sitting, the action, if reached in
8 its order upon said trial list before such day, shall be
9 postponed thereto, and shall be placed upon a list of
10 actions in order for trial on such day next after the cases,
11 if any, which were on the list for the preceding day:
12 *provided, however,* that this shall not apply to actions
13 placed upon an assigned list by consent of the parties
14 or by order of the court made in such action. If two
15 or more actions are so postponed to the same day, they
16 shall be placed upon the trial list for that day in the
17 order in which the agreements for their postponement
18 were filed. Instead of so postponing a case, the parties
19 may, by a writing filed with the clerk, or orally in his
20 presence, agree that the action be passed; and thereupon
21 it shall be stricken from the list, and shall not be re-
22 stored thereto except upon order of the court and after
23 three days' notice in writing given by either party to the
24 other. No agreement postponing or passing an action
25 shall be valid except by order of the court, if filed or
26 made in an action which is in order for trial and is
27 reached for trial on the day such agreement is made or
28 filed.

1 SECTION 58. Section seventy-nine of said chapter is
2 hereby amended by adding at the end thereof the words:
3 — or except as hereinafter provided, — so as to read as
4 follows: — *Section 79.* The trial of questions of fact
5 shall proceed although exceptions have been filed and
6 allowed therein, and such further proceedings shall be
7 had as the court orders; but judgment shall not be en-
8 tered unless the exceptions are adjudged immaterial,
9 frivolous or intended for delay, or except as hereinafter
10 provided.

1 SECTION 59. Section eighty-five of said chapter is
2 hereby amended by adding at the end thereof the words:
3 — and any allegations of fact in the pleadings may be
4 admitted in evidence against the party making the allega-
5 tions, — so as to read as follows: — *Section 85.* Plead-
6 ings shall not be evidence on the trial, but the allegations
7 therein shall bind the party who makes them, and any
8 allegations of fact in the pleadings may be admitted in
9 evidence against the party making the allegations.

1 SECTION 60. Section one hundred and six of said
2 chapter is hereby amended by striking out the word
3 “any”, in the fourth line, and inserting in place thereof
4 the word: — a, — by inserting after the word “other-
5 wise”, in the fifth line, the words: — except in equity,
6 — by striking out the word “jury”, in the fifth line,
7 and inserting in place thereof the word: — judge, — by
8 striking out the words “except in actions tried by three
9 justices of the superior court under the provisions of
10 section five of chapter one hundred and fifty-seven and
11 except upon answers in abatement or motions to dismiss
12 for defect of form of process”, in the sixth, seventh,
13 eighth, ninth and tenth lines, — and by inserting at the

14 end thereof the following:—In causes otherwise ripe
15 for judgment save for the filing of exceptions judgment
16 shall be entered as of course sixty days after the verdict
17 of the jury is rendered or the decision of the court filed
18 in cases tried without a jury, and in all causes any ex-
19 ceptions claimed shall be deemed to be waived, unless
20 the bill of exceptions has been allowed, or an order en-
21 tered in the cause upon motion and hearing extending
22 time for the allowance of the exceptions and staying the
23 entry of judgment,—so as to read as follows:—*Sec-*
24 *tion 106.* Exceptions may be alleged by any party who is
25 aggrieved by an opinion, ruling, direction or judgment
26 of the supreme judicial court or of the superior court
27 which is rendered upon any matter of law in a civil
28 cause, according to the course of the common law or
29 otherwise except in equity, tried by a judge or heard by
30 the court, or upon a motion for a new trial. The excep-
31 tions shall be reduced to writing and filed with the clerk
32 and notice thereof shall be given to the adverse party,
33 in civil cases tried by a jury, within twenty days after
34 the verdict is rendered, and in cases tried without a jury,
35 within twenty days after the notice of the decision has
36 been received, unless further time is allowed by the court.
37 The clerk, immediately on the filing of the exceptions,
38 shall present them to the court, and if, upon examination
39 thereof by the presiding justice, after hearing the parties,
40 the exceptions are found conformable to the truth, they
41 shall be allowed by him. In causes otherwise ripe for
42 judgment save for the filing of exceptions judgment shall
43 be entered as of course sixty days after the verdict of
44 the jury is rendered or the decision of the court filed
45 in cases tried without a jury, and in all causes any ex-
46 ceptions claimed shall be deemed to be waived, unless
47 the bill of exceptions has been allowed, or an order en-

48 tered in the cause upon motion and hearing extending
49 time for the allowance of the exceptions and staying the
50 entry of judgment.

1 SECTION 61. Said chapter one hundred and seventy-
2 three is hereby further amended by adding at the end
3 thereof the following sections:— *Section 131.* The full
4 court may in any cause pending before it on exceptions,
5 report, reservation or appeal, hear by witnesses or other-
6 wise any testimony claimed to have been erroneously
7 excluded at the trial of said cause. *Section 132.* The
8 full court may by rescript or otherwise, in any cause
9 pending before it on exceptions, report, reservation or
10 appeal, direct the entry of such judgment or decree as
11 justice requires, notwithstanding error at the trial or
12 hearing, if it is satisfied there has been a full and fair
13 trial or hearing, and that the substantial rights of the
14 appellant, excepting party or party aggrieved have not
15 been prejudiced by the error. In any such cause where
16 the only prejudicial error has been in the submission of
17 the case to a jury, it shall order judgment to be entered
18 for the party then appearing entitled to prevail.

1 SECTION 62. Section twenty-five of chapter one hun-
2 dred and seventy-five of the Revised Laws is hereby
3 amended by adding at the end thereof the following:—
4 The court or a judge may, in any cause or matter pend-
5 ing before it or him, where it shall appear necessary for
6 the purposes of justice, make any order for the examina-
7 tion upon oath before the court or judge or any officer
8 of the court, or any other person, and at any place, of
9 any witness or person, and may empower any party to
10 any such cause or matter to give such deposition in evi-
11 dence therein on such terms, if any, as the court or judge

12 may direct, — so as to read as follows: — *Section 25.*
13 Depositions may be taken as provided in this chapter, to
14 be used before courts, magistrates or other persons au-
15 thorized to examine witnesses, except in criminal cases.
16 The court or a judge may, in any cause or matter pend-
17 ing before it or him, where it shall appear necessary for
18 the purposes of justice, make any order for the examina-
19 tion upon oath before the court or judge or any officer
20 of the court, or any other person, and at any place, of any
21 witness or person, and may empower any party to any
22 such cause or matter to give such deposition in evidence
23 therein on such terms, if any, as the court or judge may
24 direct.

COSTS AND FEES.

1 SECTION 63. Section five of chapter two hundred and
2 three of the Revised Laws is hereby amended by striking
3 out the word “twenty”, in the fourth line, and inserting
4 in place thereof the words: — two hundred, — and by
5 striking out the word “twenty”, in the eighth line, and
6 inserting in place thereof the words: — two hundred, —
7 so as to read as follows: — *Section 5.* If, in a personal
8 action, except an action of replevin or an action under
9 the provisions of section fifteen of chapter one hundred
10 and ninety-six, which is commenced in the superior court,
11 the plaintiff does not recover final judgment for more
12 than two hundred dollars for debt or damages, he shall
13 recover no costs, unless the right to an easement or the
14 title to land is drawn in question and the justice before
15 whom the action is tried so certifies, or unless the plain-
16 tiff’s claim, as established on the trial, exceeds two hun-
17 dred dollars, and is reduced to that amount or less by
18 set-offs which could not have been proved in payment.

1 SECTION 64. Section twenty-four of said chapter is

2 hereby amended by striking out the word "three", in
3 the fourth line, and inserting in place thereof the word:
4 — five, — and by inserting, between the fourth and fifth
5 lines, the words: — For a jury fee, ten dollars, if a jury
6 is claimed by the party prevailing, — so as to read as
7 follows: — *Section 24.* There shall be allowed as costs
8 in a civil action in the supreme judicial court or in the
9 superior court, in addition to other disbursements allowed
10 by law, as follows: —

11 For the entry fee, five dollars.

12 For a jury fee, ten dollars, if a jury is claimed by the
13 party prevailing.

14 For the declaration, fifty cents.

15 For an attorney's fee, if an issue in law or fact is
16 joined, two dollars and fifty cents; if not, one dollar
17 and twenty-five cents.

18 For a term fee, five dollars for each sitting while the
19 action is pending, not exceeding three sittings, except by
20 an order of the court. If an action or if any question
21 of law therein is carried to the full court, two additional
22 term fees may be allowed. If the defendant is defaulted
23 without having appeared, only one term fee shall be
24 allowed.

25 For travel, except to carry to, or to take from, the
26 clerk's office any writ or process, thirty-three cents for
27 every ten miles, not exceeding eighty miles out and home,
28 unless the party, his agent or attorney actually travels
29 more than forty miles for the express purpose of attend-
30 ing the court in such cause. In such case, allowance
31 may be made, in the discretion of the court, according to
32 the distance actually travelled.

1 SECTION 65. Section six of chapter two hundred and
2 four of the Revised Laws is hereby amended by striking

3 out the word "three", in the fifteenth line, and inserting
4 in place thereof the word: — five, — by inserting between
5 the seventeenth and eighteenth lines the words: — For
6 the filing of a claim of trial by jury, including the trial of
7 issues framed by the land court or the probate courts, ten
8 dollars, — and by inserting after the word "fee", in the
9 twenty-sixth line, the words: — or fee for a trial by
10 jury, — so as to read as follows: — *Section 6.* The fees
11 of clerks of the courts shall be as follows: —

12 For a blank writ of attachment and summons or an
13 original summons, five cents.

14 For a subpœna for one or more witnesses, ten cents.

15 For a venire facias for jurors, six cents.

16 For a writ of review or other writ in civil proceedings,
17 not before mentioned, five cents.

18 For the entry of an action or suit, except a bastardy
19 complaint, or of a libel for divorce, or of a petition in
20 the supreme judicial court or the superior court or for
21 filing a petition to the county commissioners, for taxing
22 costs, for issuing a subpœna, injunction or execution, ex-
23 cept an alias or renewed execution, and for issuing any
24 order of notice of other mesne, interlocutory or final
25 order, rule, decree or process authorized by law, five dol-
26 lars, which shall be paid by the plaintiff, libellant, peti-
27 tioner or appellant, as the case may be.

28 For the filing of a claim of trial by jury, including the
29 trial of issues framed by the land court or the probate
30 courts, ten dollars.

31 For the entry, record and transmission of papers of
32 each question or cause in the supreme judicial court for
33 the commonwealth, three dollars.

34 For a certificate of the proof of a deed in court, twenty
35 cents.

36 For the warrant for a county tax, twenty cents.

37 In civil actions in which the commonwealth or a county
38 is the plaintiff, no entry fee or fee for a trial by jury
39 shall be paid, but if the plaintiff prevails, it shall be
40 taxed against the defendant.

1 SECTION 66. Sections five, sixteen, eighteen, nineteen,
2 and twenty of chapter one hundred and fifty-six of the
3 Revised Laws, sections four, five, eight and twenty-six of
4 chapter one hundred and fifty-seven of the Revised Laws,
5 sections eight, nine, ten, eleven, twelve, thirteen, four-
6 teen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty,
7 twenty-one, twenty-two, twenty-three, twenty-four, twenty-
8 five, twenty-six, twenty-seven and twenty-eight of chapter
9 one hundred and sixty-two of the Revised Laws, section
10 eighty-one of chapter one hundred and seventy-three of
11 the Revised Laws, and so much of sections six, thirteen
12 and thirty-seven of chapter one hundred and twenty-eight
13 of the Revised Laws, of sections three and eight of chap-
14 ter four hundred and forty-eight of the acts of the
15 year nineteen hundred and four, of chapter two hundred
16 and eighty-eight of the acts of the year nineteen hundred
17 and five, and of section three of chapter three hundred and
18 forty-four of the acts of the year nineteen hundred and
19 six, as are inconsistent herewith, and all acts and parts of
20 acts inconsistent herewith are hereby repealed.

1 SECTION 67. This act shall take effect on the first
2 day of September, in the year nineteen hundred and ten.

